THE UNIVERSITY OF ALBERTA

ON THE USE OF SOCIAL SCIENCE: A STUDY OF INFERENCE

by

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The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies and Research, for acceptance, a thesis entitled ON THE USE OF SOCIAL SCIENCE: A STUDY OF INFERENCE submitted by Joan E. Swanton in partial fulfilment of the requirements for the degree of Master of Arts.

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ABSTRACT

As societies grow larger and increase in complexity, more comprehensive and complex systems of social control are necessitated to ensure that justice is received within a particular society. In response to this need, different societies have created different judicial systems. In recent times in Western society the judicial systems have been under attack, the focus of the attack being that the legal systems are biased through the intrusion of extra-legal factors. The problem, then, becomes one of ascertaining whether such bias is operative. If such fluctuation is found, then there is concern to delienate the effects that these factors have on the quality of justice received within the legal system in question.

The present study provides an illustration and a test of these difficulties by a review of one sociolegal research which, because of its import, has raised questions about the validity of social accountancy. The study entitled Socio-Legal Statistics in Alberta was completed by Victor Matthews under the auspices of the Human Resources Research Council in 1972.

The Matthews Report concluded that a large disparity exists between Alberta's Legal-justice system and the legal-justice sytem of Canada as a whole. The purpose of this study is to examine the data analysis and statistical

techniques used to arrive at this conclusion. In many cases, the data have been re-examined in order to clarify Alberta's position in relation to the rest of Canada.

This analysis has revealed many difficulties in interpreting the Matthews Report. We have seen that the indicators used in the Report are not defined in terms of their relationship (real or intended) to reality and their meaning is not intuitively unequivocal. The limits which qualify the data are in some cases misleading and, in other cases, inappropriate to the purposes of the study. Furthermore, the report fails to account for the effects of population composition on the legal-justice system. I have concluded, therefore, that the Matthews Report was not so designed as to permit inferences about the relative justice of the Albertan criminal judicial system.

However, inferences were drawn from the data, and presented in the mass media. The sensational and inaccurate report of the findings of the research in the media resulted in a situation whereby in the public eye the Matthews Report was "charging" the government with supporting an unjust judicial system. The government, in turn, was admonished for not taking these charges seriously enough to instigate immediate action.

Our analysis has shown that although the legal-justice system in Alberta may differ from the other systems

in Canada in certain aspects, the data indicate that the disparity is not large, widespread, or unilateral. This is tantamount to saying (a) that each justice system in Canada varies somewhat from any "national norm", if there were such, and (b) that Alberta is not the extremely punitive jurisdiction depicted by the Matthews Report.

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CHAPTER ONE

LAW AND SOCIAL SCIENCE

ATTACKS ON THE JUDICIAL SYSTEM

As societies grow larger and increase in complexity, more comprehensive and complex systems of social control are necessitated to ensure that justice is received within a particular society. In response to this need, different societies have created different judicial systems. In recent times in Western society the judicial systems have been under attack, the focus of the attack being that the legal systems are biased through the intrusion of extralegal factors. The problem, then, becomes one of ascertaining whether such bias is operative. If such fluctuation is found, then there is concern to delineate the effects that these factors have on the quality of justice received within the legal system in question.

Given the nature of societies in the Western World, the judicial systems that have been developed are necessarily complex. A response to this complexity has been the bureaucratization of the judicial system. The achievement of justice within a bureaucracy produces problems which are a direct result of some of the characteristics of a bureaucratic system.

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One of the focal concerns of the legal system as a bureaucracy is efficiency. However, efficiency and justice

are not always compatible. In fact, in many instances the need for the efficient operation of the system interferes with the ideal of justice. Plea bargaining provides an illustration of how efficiency conflicts with the ideal of justice. "Some property criminals interviewed by the author have indicated that deals are occasionally made with the police in some jurisdictions in which the accused signs a statement that he committed additional offences in return for a sentence reduction on the offence with which he has actually been charged. This practise helps the police to improve their "paper" efficiency rating in terms of the proportion of offenses cleared."
(Klein, 1973:7)

Bureaucratic efficiency requires voluminous paper work. This requirement can be met in one of two ways. The existing personnel may be required to spend more time filling in forms in which case less time would be available for the day to day activities required of the legal personnel. The other alternative is that additional personnel be hired to deal with these administrative tasks. However, unless the budget is increased the additional personnel must be paid with money that was previously allocated for law enforcement and adjudication.

Another characteristic of a bureaucracy is impersonality. The client of any such organization is just one of many and therefore must be dealt with in some routinized fashion. Within the legal-justice system this routine way of dealing with persons is translated in to the philosophical

guarantee of equality before the law. In principle, this is a meaning of justice. However, in practice, the legal system must deal with individual offenders and individual offences. Therefore, discretionary powers have been granted to both the police and the courts. As a result, a situation arises in which, if the police and courts do in fact use their discretionary powers, they may be accused of not abiding by the maxim that guarantees "equality before the law". Whereas, on the other hand, if the police and courts deal with cases "by the book" they may be accused of ignoring the unique circumstances surrounding the case and thereby it may be assumed by some that an "unjust decision" has been made.

The fact that the legal-justice system must operate within a democracy creates additional problems. The system is not autonomous and therefore it alone cannot make the decisions regarding the functioning of the system. The legislative and executive branches of the government are elected and are therefore responsible to the general public. The executive, in turn, appoints members to the judicial branch. Ideally, the executive appoints members to the judiciary on the basis of merit. In practise, however, these appointments sometimes serve to further political interests. The legislature

makes the laws which must be upheld by the judiciary. The general public, in turn, must be satisfied with both the laws that are made and by the way in which these laws are upheld. What this means, then, is that the judicial system is required to operate efficiently given the restrictions imposed by outside powers.

Another important restriction is economic. For example, although experts may agree that certain specified changes are needed in the police departments, the courts and the correctional system, these changes are often difficult to implement because of their costs.

In our society the judicial systems are assigned the dual responsibility of dealing with those individuals who violate the legal norms and with the protection of the general public. In addition, the system is expected to uphold the individual rights and freedoms of every member of the society including those who are labelled "deviant". These responsibilities may conflict as often as they conform. Thus, what protects the public may be unjust to the deviant, and that which guarantees the rights of the deviant may endanger the public.

The current debate in Canada concerning parole provides a good example of this type of conflict. The philosophy behind the granting of parole is to provide a transition period for the offender. Without parole the offender changes status in one day from an institutionalized person to a "free" person. With parole, the offender is

given the opportunity to live and work in the community with supervision while completing his sentence. The intention is to be humane and efficient, to provide a bridge between incarceration and full freedom. However, many people feel that this endangers the community because of the possibility that the convict will commit some offence while on parole. Parole, then, is seen by some as infringing upon the rights and freedoms of the people living in the community into which the offender is released.

Another source of conflict in the administration of justice lies in the fact that in Canada a person who has been accused of an offence is legally innocent until proven guilty. This means, then, that every person who is charged with an offence is legally innocent from the time that the charges are laid until such time as he is convicted. However, if a person who is accused of an offence is, in fact, guilty then it is the responsibility of the legal-justice system to protect society from this person. The problem, then, is to protect society from a guilty person who is deemed legally innocent for a period of time. Efforts to deal with this problem are exemplified in the use of such things as remands and bail. However, if a person who is accused of an offence is, in fact, innocent he may be unnecessarily deprived of his rights and freedoms if his trial is remanded for a long period of time and he is unable to meet the bail requirements.

Conflicting conceptions of justice also contribute to the difficulties encountered by the legal-justice system. Three basic philosphies are generally associated with the legal justice system. The most traditional philosophy is that of punishment. This philosophy originated with the "balance" conception of justice and is associated with the Judeo-Christian ideal which requires that men must pay for their sins. In opposition to this philisophy is the idea that men who violate legal norms should be rehabilitated or resocialized such that they have no desire to commit wrongs. This philisophy is also grounded in the Christian tradition (humanitarianism) and is a reaction to the punitive philosophy. The third philosophy is that of deterence which has as its goal the treatment of offenders such that the offender as well as others should be deterred from violating legal norms. The problem that the legal system faces, then, is what criteria to use to evaluate proposed programs and reforms. Humane treatment does not guarantee rehabilitation and punishment does not guarantee deterrence. In fact, the legal system is generally expected to provide a humane atmosphere for criminals which, in addition, serves to rehabilitate the offender and deter others from violating legal norms. This problem is illustrated by Wilkins in the following passage:

> "It may be believed that it is wrong to flog offenders, but it is difficult to make such a claim unless it is known whether or not those flogged tend afterwards to commit more or fewer offences than those not flogged. It could be that flogging resulted in fewer reconvictions by offenders so dealt with, and yet it may still be held that it would be wrong to flog. But suppose that all those flogged subsequently lived good lives and all those not flogged returned to a life of crime, could flogging then be considered to be unethical? It might be so argued if other aspects of flogging could be found which were relevant to the issues, but these other factors would need similar assessment. Again, some would argue that flogging is ethical - the offender, they believe, must be given a taste of his own medicine. But if all those flogged returned to crime, and all those not flogged lived good lives, it would be difficult to sustain the view that flogging was right."
> (1964:3)

The above discussion has indicated some of the dilemmas faced by judicial systems in the Western World. The common issue throughout is the "justice" of justice. The next section will deal with the promise of social science to answer such questions.

THE PROMISE OF SOCIAL SCIENCE

It is questionable whether the legal profession in and of itself will be able to provide "just" solutions to the various dilemmas it faces without some knowledge of how law and society function in relation to each other. It is in this context that the social scientist should be able to contribute his particular skills and knowledge. A word of caution is necessary at this point. "Although science can make definite contributions to the effectiveness of a legal system in attaining specified goals, it

cannot indicate what these goals shall be". (Schur, 1968:14)

"The legal system", according to Schur, "is at once an embodiment of high ideals and a means by which men can deal with the quite mundane and often messy conflicts and problems that arise in everyday living". (1968:202) It is the latter mundane aspect which is of interest to the sociologist. The high ideals concern the social scientist only in as much as they attain significance in relation to specific patterns of behavior.

> "The study of law in its social relations is concerned with the actual effects in the legal order of the fact that such ideals (justice) are held, and the effects of the legal order on such ideals as held. It is not concerned in principle, as is the study of theories of justice, with the question whether the ideals are valid, invalid, demonstrable or undemonstrable, useful or useless or indeterminate. The former is a descriptive activity; the latter is a normative or "evaluative" one. The one tries to describe what "is" or "goes on", the other what "ought to be" or "ought to go on", (Stone, 1966:5)

While the social scientist, like Everyman, is concerned with moral issues, his professional expertise lies elsewhere. He should not be held responsible for determining what "ought to be". His major contribution is (or should be) to provide a clear picture of what "is". The role of the social scientist with regards to questions concerning law and legal systems is one of a social accountant. His expertise, if any, is in counting and relating social behaviors and social conditions. "Where the counts are reliable, the accountant may be graduated to the role

of societal actuary, calculating the odds on the results of alternative courses of action." (Nettler, 1971:24)

Difficulties in Counting and in Drawing Inferences

The ability to count implies two things - first, the ability to identify what it is that is being counted and secondly the ability to classify the identified object. The social accountant, then, must first be able to identify social behaviors and social conditions. Secondly, he must ascertain what social behaviors and what social conditions are associated with what other social behaviors and social conditions.

> "Frequencies depend upon counts. Counts depend upon things reliably identified for tally. This brings one full circle to the need for a reliable taxonomy, since without such a schema of definitions of what is being counted, no rules can be perceived." (Nettler, 1970:120)

Social accountancy is not, however, as simple as it appears at first glance. Social behaviors and social conditions are complex objects. Skill is required to identify these objects from within the complex social web. Once the object has been identified the scientist must decide where the object fits within his classification scheme.

This is a decision which should not be made arbitrarily. There should be a clear set of criteria for classification purposes. However, even with a clear set of criteria there are likely to be some instances where a

particular object is difficult to classify. For example, we may ask - what constitutes an aggressive act? If this question is well answered the distinction between an aggressive act and a non-aggressive act is readily apparant in most cases. It is not difficult to imagine, however, how borderline cases emerge in this example.

A related difficulty in counting is the kinds of questions the social scientist may be expected to answer. This problem is analyzed in the following section by Nettler, "We are accustomed, here, to think with high-level abstractions and, as we move up the abstraction ladder into the stratosphere of such powerful ideas as 'freedom and democracy', 'welfare and ill-fare', 'prejudice, discrimination and justice', the taxonomy becomes promiscuous. Many 'kinds of events' may occupy it. And we debate without resolution what shall count as 'improvement' or 'crime' or 'self-actualization'." (1970:121)

The use of high-level abstractions permits the scientist to work with concepts that can prove anything. "Since the loose abstractions will accommodate diverse measures, including indicators of behaviors that are themselves to be explained by reference to the abstraction, we confront, once again the perils of tautology and fate of the Whifflebird." (Nettler, 1970:121) The message is, of course, that social scientists should restrict their studies to less abstract concepts such that counting

may be facilitated.

After objects have been identified and classified, there is the question of what this tally means. In other words, how does one draw inferences from the data? An inference for purposes of the present discussion may be described as that operation which leads from data (reality) to explanation or meaning (theory). This is an inductive process.

An inference, then, by definition must be based upon empirical data. Carnap formulates a corresponding requirement to use "the total evidence available". (1934:211) Thus, inferences when correctly drawn may be an indicator of our present state of knowledge. Kaplan argues that "The conclusions of an inductive inference are never established absolutely, but only to some degree or other. To just what degree depends inescapably, on the premises from which it is inferred - that is on our state of knowledge". (1964:233)

There is a tendency in sociology as well as other science towards the disjuction of data and explanation. This disjunction is pointed out by Melvin Marx in the following passage: "...all modern natural sciences have developed a large number of inferentially derived propositions or theories which are ultimately based upon, but not entirely reducible to, concrete empirical data." (emphasis added, 1963:4) The result of this is that there

exists a one-way street between data and explanation - while data may lead to explanation, explanation does not necessarily lead to data. This creates the problem of testability. If explanation is not reducible to data, it appears that "something" has been added to the explanation which is not apparent in the data. Judging by the nature of explanations available it is reasonable to assume that the "something" that has been added often falls into a category of speculation, opinion or educated guesses. The problem, then, is the impossibility of testing (ascertaining truth values) "speculation, opinion or educated guesses. Thus, an inference in addition to being <u>derived from</u> empirical data should be <u>reducible to</u> empirical data.

An inductive inference expresses the probability of an event as some frequency of its occurrence among other events. The probability of a specific event occurring will vary then, with the denominator chosen. "The denominator of such a fraction is the class of attributes to which the event to be anticipated is referred". (Nettler, 1970:121) The difficulty in such a process lies in the choice of a denominator. The scientist can prove virtually anything if he choses an appropriate denominator. The problem is further complicated by the fact that there exists no scientific criterion for judging the appropriateness of a denominator. It has been suggested by Nettler

that "relevance" may be one criterion. "The test of the "relevance" of a proposed reference class is whether its employment makes a difference." (Nettler, 1970:122) The criterion, however, is not without difficulties. "Relevance" remains an open question. It is not known a priori and there is no escape from "using one's head" when one would explain matters as instances of statistical regularities. (Nettler, 1970:122)

The fact that an inference is nothing more than a probability statement may be disturbing to those who look to social science to answer important social questions. While what is required in answer to these social questions is definitive answers, social science supplies only probability statements. To this dissatisfaction we can only reply that this is the way things are and that correct probability statements may well prove to be far more valuable than definitive statements that are based on speculation, opinion and educated guesses.

AN ILLUSTRATION: THE MATTHEWS REPORT

The present study provides an illustration and a test of these difficulties by a review of one sociolegal research which, because of its import, has raised questions about the validity of social accountancy. The study entitled Socio-Legal Statitics in Alberta was completed by Victor

Matthews under the auspicies of the Human Resources Research Council in 1972.

The major intention of our investigation is to test the soundness of the inferences drawn by the Matthews' Report. Our evaluation may be expected to have import for the role of social scientists in the formation of social policy and for the proper professional stance to be taken vis-a-vis the mass media. The results of this study will address such questions on the value of social science to social policy as have been raised by Biderman (1966), Moynihan (1969, 1970) and Nettler (1970,1971), among others.

The Matthews' Report is a heavily statistical report containing burdensome tables and charts which make the report hard to assess even for the attentive scholar. The conclusions reported by the study became controversial issues, especially in Alberta, but also in other parts of Canada. The focus of the report is two-fold. It concerns itself with (a) the availability of socio-legal statistics and (b) the significance of socio-legal statistics in Alberta. The case presented in the report regarding the need for a central registry of social-legal statistics or, at least, for a more efficient method of gathering and keeping statistical information is legitimate and will not be discussed in the present study. Our study will be concerned with the interpretation of these statistics.

A summary of the major conclusions drawn in the Matthews' Report follows:

(1) In Alberta the offence rate is increasing at a faster rate than it is in Canada as a whole.

"If attention is directed only to the criminal code and provincial statutes (approximately 90 percent of all offences) between 1962 and 1969, Canada shows an increase of 19 percent in the offence rate for the criminal code while Alberta increases by 49 percent. For the provincial statutes, Canada shows an increase of 49 percent in the offence rate while Alberta increases by 73 percent. The pattern is one of an increasing number of offences reported to the police, with Alberta increasing at a rate well above that of Canada." (Matthews, 1972:36)

(2) "The national trend is to charge different persons with the same offence while the Albertan trend is to charge the same person with different offences." (Matthews, 1972:36) [1]

"For the criminal code between 1962 and 1969, Canada charged 15 percent more persons per 1,000 offences than

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1. Ascertaining the meaning of this difficult passage will be one of the tasks of the present research.

Alberta. This pattern is consistent for provincial statutes and municipal by-laws. The pattern is reversed for federal statutes..... With few exceptions, however, the pattern is consistent; Canada averages a higher rate of persons charged than does Alberta; suggesting that the national trend is to charge different persons with the same offence while the Albertan trend is to charge the same person with different offences."
(Matthews, 1972:35)

(3) <u>The rate of indictable and summary convictions is higher in Alberta than in Canada as a whole</u>.
"The percentage of indictable convictions for Alberta averages more than twice that of Canada (ratio 2.15). Alberta's rate per 1,000 population for indictable convictions averages 60 percent above that of Canada..... Alberta's average percentage of summary convictions (without traffic) averages more than twice that of Canada (ratio 2.28); and Alberta's rate per 1,000 for convictions averages 70 percent above that of Canada." (Matthews, 1972:41)

(4) <u>A person who is charged with an offence is more likely to be found guilty in Alberta than in Canada as a whole</u>.
Examination of these tables suggests that Alberta has a lower acquittal rate than Canada. Although the difference is slight in some cases, the pattern suggests that a person who is charged with an offence is more likely to be found

guilty in Alberta than Canada as a whole."
(Matthews, 1972:45)

(5) In Alberta the suspended sentence is used less than in Canada as a whole and incarceration is used more than in Canada as a whole.

"Throughout, Alberta places less emphasis upon the suspended sentence than Canada. A greater emphasis is placed upon incarceration for convictions for the criminal code, federal statutes and especially the provincial statutes. (Matthews, 1972:45)

(6) Alberta's increase in institutional population is higher than the population increase and is higher than any other Province in Canada.

"Alberta experienced a 28.8 percent increase in population (quite similar to that of Canada), but a 71.1 increase in institutional population. This increase is more than eight times the national average and more than twice the increase in the next highest province."
(Matthews, 1972:60)

(7) Alberta's use of incarceration for minor offences is greater than any other country in the Western World.

"These data point out that Alberta has the highest incarceration to conviction ratio for any province in Canada... it may be concluded that Alberta differs significantly (does not belong with the rest of Canada) in the extent to which incarceration is used

as a sanction for summary convictions. This disparity is of even greater significance in that Canada has the highest incarceration rate of the Western World. (Cousineau and Veevers, 1972). This means that Alberta's use of incarceration for minor offences is greater than any other country in the Western World." (Matthews, 1972:63)[2]

THE QUESTIONS

The confusion and the hostility created by this report are illuminated by the following considerations. When we look at arrest rates, offence rates, and incarceration rates for different provinces and territories, and compare these rates, there are three possible explanations for the differences in these rates. The first explanation is that the populations exposed to the legal system are somehow different between provinces and territories. The second explanation is that the legal system operates differently in the several provinces and territories. The third and most probable possibility combines the

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2. As an example of one of the statistical manipulations to be examined by the present study, it may be noted here that it is misleading to compare "provinces" and "countries". A province and a country are different units of analysis; the statistics for the country are an aggregare of the statistics for provinces or states.

first two explanations. That is it may be that a combination of a different population and a differentially operating legal system provides the real reason for the differences. The Matthews' Report suggests that these differences in rates are to be attributed solely to differentially operating legal systems. For example, Matthews states that, "It is the police and the courts which must bear the responsibility for a concept of justice in Alberta that differs significantly from that of Canada as a whole." (1972:65)[3] This allegation constitutes part of the reason for the anxiety and controversy created by the report.

Our study will concern itself mainly with two issues. The first issue is the quality of the data analysis in the Matthews' Report. In other words, how were the statistics calculated, to what phenomena do the numbers refer, what are the assumptions underlying the data processing, and is it possible that the statistics could have been calculated in a more valid way? The second issue concerns the interpretation of the statistical trends discovered.

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3. The interpretations drawn by the journalists regarding this matter are definite.

"It (the Matthews' Report) was severely critical of the system of law and justice in Alberta...." (Edmonton Journal, 1972 h)

(Matthews) "charged crime punishment is backward in Alberta." (Edmonton Journal, 1972 g)

Interpretation of comparative statistical data in criminology is problematic. Many factors contribute to the outcome of statistical analysis and these factors should be considered when drawing conclusions. The task of the present study is to describe the canons of proper inference, to suggest factors within the population that influence or modify differences between provinces, and also to suggest differences in the operation of the legal systems that may explain these differences.

CHAPTER TWO

OFFICIAL STATISTICS AND STATISTICAL ANALYSIS

PROBLEMS WITH OFFICIAL STATISTICS

The Matthews Report analyzes the legal-justice system of Alberta using Dominion Bureau of Statistics (D.B.S.) statistics. These statistics are tallies of events which are classified under a uniform classification scheme. Thus, the statistics themselves are subject to two possible sources of error. The first source of error results from the tally and the second from the classification scheme.

There are factors involved in the reporting of crime that confound the accuracy of the statistics. One factor is police practice. This involves a) the number of police in relation to the population size and b) the use of police discretion. The more police per population available to investigate reported offences, the higher the arrest rates for minor offences and the higher the probability that the men will have time to record the events properly and accurately. When the police force is small in relation to population size, the men will investigate only the most serious offences and will have relatively little time to be concerned about reporting procedures.

The use of police discretion complicates the question of what should be reported and what should not. Where one officer will tend to give only a warning another may make an arrest. Similarly there will be differences in what is felt

necessary to be reported and what is not. These variations occur not only from officer to officer, but from police force to police force. In addition, the trend towards the professionalization of police forces may influence reporting procedures in the direction of more and better reporting.

Although differential reporting practises are most often discussed in connection with the police, it is reasonable to assume that comparable difficulties in tallying events occur in the other branches of the legal-justice system. (i.e., the courts and the correctional institutions)

A second source of error is encountered in the official classification scheme. The categories used to describe an offence can vary both from year to year and place to place. Thus, while any abortion was illegal in Canada prior to 1969, now only abortions which are deemed unnecessary to protect the mother's health are illegal. Another type of classification problem is that of determining whether or not an offence has actually been committed. In the case of crimes such as forcible rape, where the offence often results from a prior association, it is sometimes difficult to tell whether there was an offence or not.

In addition to these two sources of error, the method of collecting the statistics may influence their reliability. In Alberta, information which pertains to the legal-justice

system is collected by three major agencies: the police, the courts, and the correctional institutions. Most of this information is collected independently by each agency for its own purposes. Thus the information is collected without addressing certain important issues such as the extent to which the statistics provide an accurate picture of the phenomena in question and the practical use to which this knowledge could or should be put. Furthermore, at the present time, there is no provision for information to be transferred from agency to agency, and each agency has a different system for recording essentially the same type of data.

Another important consideration in the use of official crime statistics to analyze the legal-justice system is that the general population of an area supplies the input for the legal-justice system. Thus, differences found between areas using these statistics may be attributable to differential population characteristics. Some of the population characteristics that must be taken into account in interpreting changes in crime rates, and in the amount and type of crime that occurs from place to place, are summarized in the introduction to the Dominion Bureau of Statistics publications.

> "Users of the data are cautioned against drawing conclusions from comparisons of reported areas, without first considering the two factors of complete coverage and quality mentioned above and other which may cause variations between areas, whether provincial, metropolitan, communities, etc.,

> such as: the density and size of the population; population mobility, sometimes seasonal between areas; composition of the population, including age, sex, and other social characteristics; varying economic and social conditions;....."
> (Dominion Bureau of Statistics, 85-203, 1964:10)

These difficulties are not presented to suggest that official statistics should not be used for research purposes but rather to point out where these difficulties lie in order that, where possible, they may be dealt with effectively in research design. To ignore these difficulties is to ignore some of the possible explanations for differences discovered among the legal-justice systems in Canada.

USING OFFICIAL STATISTICS IN RESEARCH

Selection of Data

Any research based on official statistics uses only a proportion of the total data available. The choice of a particular set of data should be based upon the criterion of appropriateness to the goals of the study. The rationale for the choice of a particular set of data as opposed to other logical alternatives should be included in the body of the study. Furthermore, it must be recognized that the conclusions based upon the data, are true only within the limits of the data chosen.

An investigator may wish to compare incarceration rates among the provinces of Canada. Suppose that he chooses the data for 1963 in order to make this comparison. If a particular province incarcerates offenders for drinking offences in 1963 but does not do so in other years, the

incarceration rate for 1963 will be inflated and will not accurately reflect incarceration rates in general for that province. Thus, the choice of incarceration statistics for the year 1963 is inappropriate for the purposes of comparing incarceration rates among the provinces. A more appropriate data set would be the average incarceration rate over a period of several years for each of the provinces.

A researcher, then, must be alert to various sources of bias in his choicce of data. When these sources are recognized, there are various methods of eliminating them in the data analysis. If they are not recognized, they undermine the reliability of the entire research project.

If, in the above example, the investigator had no reason to believe that 1963 was not a representative year in terms of incarceration rates for the provinces his selection of the data would have been appropriate. However, the investigator could not legitimately make general statements concerning incarceration rates. His conclusions would have "truth value" only within the limits qualifying the data, which in this case is the specific year 1963. Furthermore, the limits which qualify the data must be reported in conjunction with the conclusions drawn in order to avoid misunderstandings.

Indicators

Indicators are used in social research to tell a story about reality. If the story told is to be a true story, the

indicators used must unequivocally measure the reality which they are intended to measure. An indicator which measures what it is intended to measure is said to have validity. If a measure is not valid, it measures something other than what it is intended to measure and the conclusions based on this measure will be inaccurate.

If a researcher intends to analyze the legal-justice system, he must choose indicators which validly and reliably measure some characteristics of the legal-justice system. This process is not as simple as it appears at first glance. The choice of indicators from the available official statistics is complicated by the fact that these statistics are tallies of the population which comes into contact with the legal-justice system. That is, they are counts of the number of persons arrested, convicted, and incarcerated. Thus, if we wish to reveal characteristics of the legal-justice system, we must control for the effects of population differences. The relationship between the population and the legal-justice system is an interaction process. That is, while the legal-justice systems act upon the population, characteristics of the population also affects the legal-justice system. Thus, if an indicator is not carefully chosen and defined, it will be impossible to determine if it is measuring characteristics of the population or characteristics of the legal-justice system.

Rates

Rates express the occurrence of an event as a function of its occurrence among other events. Thus, rates serve the purpose of reducing events to a common denominator such that they can be compared. An investigator, then, interested in comparing the number of offences in different areas would compare the rate of offences per population rather than the raw number of offences. If the investigator compares the raw number of offences any differences found could be due to different population sizes. Expressing the number of offences as a rate per population eliminates the possibility that the investigator is indirectly measuring the size of the population as opposed to the occurrence of offences in these areas.

In addition to rendering data from different areas comparable, rates can be used to control for extraneous factors in the data. For example, we know that the number of persons convicted is a function of both the number of persons charged with an offence and the propensity of the courts to convict persons charged with an offence. Thus, if we wish to measure the propensity of the courts to convict persons charged with offences, and eliminate the effects of the number of persons charged we would calculate a rate of the number of persons convicted over the number of persons charged with an offence. It should be noted that the propensity of the courts to convict an offender is a function of several <u>other</u> factors such as the seriousness of the crime and the quality of the evidence presented at the trial. These factors should also

be considered in the analysis.

Since rates vary with the denominator chosen the denominator should be appropriate and consistent among areas which are being compared.

Comparisons and Differences

The data presented in the D.B.S. catalogues for Canada as a whole are aggregate data. The presentation is not an average of the data for all of the provinces and territories, but rather it is all of the data for the provinces and territories added together.

Aggregate data, of course, conceals many interesting variations. Extreme scores become buried in aggregate data and can distort their meaning. Thus, the aggregate figures for Canada as a whole in and of themselves tell us nothing about the individual provinces and territories which make up the aggregate. Therefore, if one wishes to assess the place of Alberta's legal-justice system in the Canadian context, it is not sufficient to compare Albertan data with Canadian aggregate data. A meaningful assessment requires that Alberta's legal-justice system be compared to those of the individual provinces and territories. There are both logical and practical arguments in favour of this procedure.

The logical requirement is that "units of analysis" be similar. Albertan data is aggregate data for all areas within the province, including cities, towns, and municipalities; Canadian data is aggregate data based on all the provinces and territories. These two sets of data, then,

are different units of analysis. Furthermore, the Albertan data is contained within the Canadian aggregate data. Therefore, a comparison of Alberta to Canada as a whole is a comparison of Alberta to itself plus the other provinces and the territories. If the Albertan data is removed from the Canadian data, the comparison is one of a part to an incomplete whole.

A practical assessment of the comparison of Albertan data to Canadian data reveals that this procedure can be misleading. Suppose, we find, for example, that Alberta's offence rate is much higher than the offence rate for Canada as a whole. We conclude, then, that more offences are reported to the police in Alberta than in Canada as a whole. Now suppose we examine the composition of the aggregate data for Canada and find that a few provinces and the territories have higher offence rates than those of Alberta and a few provinces have substantially lower offence rates than Canada. This time we conclude that in Alberta the number of offences reported to the police does not differ significantly from the number of offences reported in other areas of Canada.

We are now left with the question of what constitutes a significant difference. We have seen that a difference between Albertan data and Canadian aggregate data, no matter how large, does not say much unless we know the composition of the aggregate data. We may wish to assume, then, that those provinces or territories which have extreme scores

on some measure differ significantly from the rest of Canada. This however, is not always the case as is evidenced by the following illustration:

> It started innocently with the editor of the Reader's Digest, who smokes cigarettes but takes a dim view of them all the same. His magazine went to work and had a battery of laboratory folk analyze the smoke from several brands of cigarettes. The magazine published the results, giving the nicotine and whatnot content of the smoke by brands. The conclusion stated by the magazine and borne out in its detailed figures was that all the brands were virtually identical and that it didn't make any difference which one you smoked.
>
> Now you might think it was a blow to cigarette manufacturers and to the fellows who think up the new copy angles in the advertising agencies. It would seem to explode all advertising claims about soothing throats and kindness to T-zones.
>
> But somebody spotted something. In the lists of almost identical amounts of poisons, one cigarette had to be at the bottom, and the one was Old Gold. Out went the telegrams, and big advertisements appeared in the newspapers at once in the biggest type at hand. The headlines and the copy simply said that of all cigarettes tested by this great national magazine Old Gold had the least of these undesirable things in its smoke. Excluded were all the figures and any hint that the difference was negligible. (Huff, 1954:59)

There is no substitute for common sense, unless it be statistical tests of significance, when deciding how much of a difference constitutes a real difference. "...a difference is only a difference if it makes a difference." (Huff, 1954:58)

There are no hard and fast rules governing the relationship between statistical techniques and data analysis. One must proceed, then, with caution and common sense. A good research project is characterized by a carefully planned study design and a thoughtful and practical use of statistical techniques.

With these canons in mind, we will examine in the following chapter, the data analysis and statistical techniques used to analyze Albert's legal-justice system by the Matthews Report.

CHAPTER THREE

DATA ANALYSIS

The Matthews Report concludes that a large disparity exists between Alberta's legal-justice system and the legal-justice system of Canada as a whole. The purpose of this chapter is to examine the data analysis and statistical techniques used to arrive at this conclusion. Each of the major conclusions of the Matthews Report as presented in Chapter One of this study is examined. In many cases, the data have been re-examined in order to clarify Alberta's position in relation to the rest of Canada.

(1) OFFENCE RATE AND RATE OF PERSONS CHARGED

The Matthews Report concludes that the number of offences reported to the police is increasing at a faster rate in Alberta than it is in Canada as a whole. The conclusion is based upon the calculation of the percentage changes between 1962 and 1969 in offence rates for the criminal code and provincial statutes of Alberta and for Canada as a whole. The report states that "For the criminal code: Canada shows an increase of 19 percent in the offence rate while Alberta increased by 49 percent....." (1972:30) However, a calculation error is involved here. The increase in the offence rate in Canada for the criminal code is 63 percent not 19 percent.[1]

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1. The calculation is as follows:

$$\begin{array}{r} 7.384 \\ -4.538 \\ \hline 2.846 \end{array}$$

(Canadian offence rate - 1969)
(Canadian offence rate - 1962)

$\frac{2.846}{4.538}$ = 63 percent increase in the offence rate in 1962 to 1969.

In addition to changes in the offence rate, the Matthews Report shows the percentage changes from 1962 to 1969 in rates of persons charged for the criminal code and provincial statutes for Alberta and Canada as a whole.

In order to provide a more comprehensive assessment of the position of Alberta within the Canadian context, the percentage changes between 1962 and 1969 in offence rates and rates of persons charged were calculated for the criminal code and provincial statutes for Canada, the provinces and the territories. Table 1 presents this data in rank order beginning with the largest increase.

For the period 1962 to 1969 the offence rate (the number of offences reported to the police per 1,000 population between the ages of 15 and 69) increased in every province and territory in Canada for both the criminal code and the provincial statutes. The rate of persons charged under the criminal code (the number of persons charged with offences per 1,000 population between the ages of 15 and 69) increased during the same period in all provinces. For the provincial statutes, all areas except Quebec, British Columbia, and the Yukon and Northwest Territories[2] showed an increase in the rate of persons charged.

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2. The Yukon and Northwest Territories are generally reported by D.B.S. as one unit, although, in fact, they constitute separate judicial units.

TABLE 1: PERCENTAGE CHANGES BETWEEN 1962 AND 1969 IN OFFENCE RATE AND RATE OF PERSONS CHARGED FOR THE CRIMINAL CODE AND PROVINCIAL STATUTES FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE.

OFFENCE RATE		RATE OF PERSONS CHARGED	
CRIMINAL CODE			
Yukon & Northwest Territories	186%	Nova Scotia	195%
Prince Edward Island	117	Prince Edward Island	80
New Brunswick	111	Yukon & Northwest Territories	62
Newfoundland	99	Quebec	53
Quebec	67	CANADA	38
Ontario	66	Newfoundland	35
CANADA	63	British Columbia	31
Nova Scotia	61	Ontario	28
British Columbia	57	Manitoba	25
Alberta	49	New Brunswick	20
Manitoba	45	Alberta	20
Saskatchewan	33	Saskatchewan	19
PROVINCIAL STATUTES			
New Brunswick	113	New Brunswick	111
Saskatchewan	104	Manitoba	87
Manitoba	79	Saskatchewan	87
Alberta	73	Prince Edward Island	80
Prince Edward Island	56	Alberta	54
CANADA	49	Nova Scotia	48
Nova Scotia	47	Ontario	37
Ontario	40	CANADA	22
Yukon & Northwest Territories	31	Newfoundland	14
Newfoundland	25	Yukon & Northwest Territories	-3
British Columbia	24	Quebec	-24
Quebec	24	British Columbia	-76

This table is adapted from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix.

For the criminal code, the increase in the offence rate varied from a high of 186 percent in the Yukon and Northwest Territories to a low of 33 percent in Saskatchewan. The increase in Alberta is 49 percent and for Canada as a whole the increase is 63 percent. The range shown in the rate of persons charged is large; Nova Scotia increased by 195 percent while Saskatchewan increased by only 19 percent. The increase in the rate of persons charged in Alberta is 20 percent; only 1 percent higher than the lowest increase! For Canada as a whole the increase is 38 percent. Thus, the increase in both the offence rate and the rate of persons charged for this period in Alberta is well below the increase in Canada as a whole.

For the provincial statutes, the largest increase in the offence rate is found in New Brunswick (113%) and the smallest increase is found in Quebec (24%). Alberta's offence rate increased by 73 percent and the increase in Canada as a whole is 49 percent. The percentage change in the rate of persons charged ranges from an increase of 111 percent in New Brunswick to a decrease of 76 percent in British Columbia. The rate of persons charged in Alberta increased by 54 percent and in Canada as a whole the increase was 22 percent. The increase in both the offence rate and the rate of persons charged in Alberta is higher than the increase in Canada as a whole.

However, among the provinces and territories, Alberta ranks fourth in terms of increases in the provincial offence rate and fifth in terms of the rate of persons charged.

Conclusion

For the criminal code, the rate of offences reported to the police and the rate of persons charged with offences in Alberta increased very little between 1962 and 1969 relative to the other provinces and territories of Canada. Alhtough Alberta experienced a larger increase in both the rate of persons charged with offences and the offence rate for the provincial statutes, these increases are smaller than the increases shown in some other provinces.

(2) PERSONS CHARGED AND OFFENCES CLEARED BY CHARGE

The Matthews Report concludes that the national trend is to charge different persons with the same offence while the Albertan trend is to charge the same persons with different offences. Matthews' conclusion is based on the calculation of ratios for the number of persons charged with the number of offences cleared by charge from 1962 to 1969 for Alberta and Canada as a whole.

Again, in order that a better understanding of the position of Alberta in relation to the rest of Canada be obtained, these ratios were re-calculated for Alberta and Canada. In addition, ratios were calculated for the

remaining provinces and the territories.

Table 2 shows the average ratio of the number of persons charged to the number of offences cleared by charge from 1962 to 1969 for the criminal code, the provincial statutes, federal statutes, and the municipal by-laws. Interpretation of this table is as follows: for the criminal code between 1962 and 1969, an average of 1,049 persons in Canada as a whole were charged for every 1,000 offences, a ratio of 1.049.

Among the provinces these ratios for the criminal code range from 1.194 in Quebec to .914 in Alberta. Only two provinces, Ontario and Alberta, show a ratio of less than one. This indicates that in these two provinces, on the average, the number of persons charged is less than the number of offences cleared by charge.

The range of ratios for the federal statutes is from 1.179 in Prince Edward Island to .876 in Newfoundland. Four provinces, Newfoundland, Quebec, Ontario and Saskatchewan show a ratio of less than one. In addition, it should be noted that the ratio for Canada as a whole is less than one.

The variation in the ratios for the provincial statutes is slight; the largest ratio is for Quebec (1.065) and the smallest is for Alberta (.973). In all cases the ratio is very close to one, indicating that there is almost a one-to-one correspondence of persons

TABLE 2: AVERAGE RATIO OF NUMBER OF PERSONS CHARGED WITH NUMBER OF OFFENCES CLEARED BY CHARGE FROM 1962 TO 1969 FOR THE PROVINCES, THE TERRITORIES AND CANADA AS A WHOLE

	CRIMINAL CODE	FEDERAL STATUTES	PROVINCIAL STATUTES	MUNICIPAL BY-LAWS
Canada	1.049	.966	1.007	1.034
Newfoundland	1.151	.876	.995	.992
Prince Edward Island	1.173	1.179	.998	1.004
Nova Scotia	1.124	1.025	.998	1.001
New Brunswick	1.138	1.011	1.006	1.029
Quebec	1.194	.947	1.065	1.044
Ontario	.980	.943	.999	.951
Manitoba	1.097	1.024	1.005	1.001
Saskatchewan	1.021	.915	1.005	1.005
Alberta	.914	1.002	.973	.881
British Columbia	1.049	1.042	1.010	1.000
Yukon & Northwest Territories	1.049	1.004	1.008	1.023

Data taken from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix.

charged and offences cleared by charge.

For the municipal by-laws the ratios range from 1.044 in Quebec to .881 in Alberta. Three provinces, Newfoundland, Ontario and Alberta, show a ratio of less than one.

Conclusion and Discussion

In the majority of instances, both in Canada as a whole and in the individual provinces and the territories, the number of persons charged exceeds the number of offences cleared by charge. There are, however, several instances where the reverse is true and these instances are not restricted to Alberta, although Alberta does show the lowest ratio of the number of persons charged to the number of offences cleared by charge for the criminal code, the provincial statutes, and the municipal by-laws.

The Matthew Report makes the inference that these differences in ratios are due to the differential operation of the legal-justice systems within the country. That is, in the majority of instances where the number of persons charged exceeds the number of offences cleared by charge, the conclusion is that the police tend to charge different persons with the same offence while in the reverse situation, where the number of offences cleared

by charge exceeds the number of persons charged, the conclusion is that the police tend to charge the same person with different offences.

It is, however, plausible that these differences in ratios reflect differences in methods used in the commission of crimes. Using the D.B.S. statistics, it is not possible to determine which hypothesis is correct. This could be determined only by a thorough examination of individual case records. In any event the inter-provincial differences are too small to justify dramatic inferences that invidiously compare the justice system in Alberta with that in other provinces.

(3) INDICTABLE AND SUMMARY CONVICTIONS

The Matthews Report concludes that in Alberta the rate of convictions for all offences, other than traffic, are well above those of Canada as a whole. This conclusion is based on the calculation of the conviction rate for indictable offences, summary convictions for traffic offences and summary convictions for other than traffic offences for the years 1960 to 1968 inclusive for Alberta and Canada as a whole. In addition, the percentage that each category (indictable, summary traffic, and summary other than traffic) contributes to the total number of convictions was

calculated for Alberta and Canada as a whole. It was concluded that "the percentage of indictable convictions for Alberta averages more than twice that of Canada." (Matthews, 1972:41)

Table 3 was constructed in order to compare Alberta to the remaining provinces and territories. The table shows the average number of convictions, the average conviction rate per 1,000 population between the ages of 15 and 69, and the average percentage that each category represents of the total number of convictions for the years 1960 to 1968 inclusive. These data are broken down by offence into indictable, summary traffic, and summary other than traffic convictions. The data was reported for the provinces, the territories, and Canada as a whole.

The conviction rate for indictable offences ranges from 1.459 for the Yukon and Northwest Territories to .135 for Prince Edward Island. Alberta shows the second[3] largest conviction rate (.979) followed closely by British Columbia (.898) and Manitoba (.873). The conviction rate for Canada as a whole is .610. In terms

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3. The fact that the Yukon and Northwest Territories are usually reported in the D.B.S. catalogues as one unit presents problems in ranking Canadian jurisdictions with regard to certain statistics. It was decided that for present purposes, the Yukon and Northwest Territories would be counted as one unit in the ranking of areas. It should be remembered, however, that in terms of the conviction rate, Alberta could legitimately be ranked third in Canada falling behind both of the Territories.

TABLE 3: AVERAGE NUMBER OF CONVICTIONS, AVERAGE CONVICTION RATE, AND AVERAGE PERCENTAGE OF TOTAL CONVICTIONS FOR INDICTABLE OFFENCES, SUMMARY TRAFFIC OFFENCES, AND SUMMARY OFFENCES OTHER THAN TRAFFIC FROM 1960 TO 1968 FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE

	AVERAGE NUMBER OF CONVICTIONS	AVERAGE CONVICTION RATE	PERCENTAGE
	INDICTABLE		
Newfoundland	1,227	.466	6.54
Prince Edward Island	118	.135	2.37
Nova Scotia	2,056	.455	5.21
New Brunswick	1,715	.478	3.72
Quebec	15,567	.456	1.99
Ontario	26,887	.641	1.64
Manitoba	5,085	.873	4.45
Saskatchewan	3,685	.652	4.27
Alberta	8,366	.979	4.94
British Columbia	9,962	.898	3.17
Northwest Territories and Yukon Territories	348	1.459	7.24
Canada	73,325	.610	2.35
	SUMMARY CONVICTION FOR TRAFFIC OFFENCES		
Newfoundland	10,753	4.034	55.93
Prince Edward Island	2,846	4.526	50.06
Nova Scotia	25,428	5.751	62.01
New Brunswick	34,624	9.884	65.97
Quebec	734,346	21.670	86.93
Ontario	1,535,556	38.896	89.54
Manitoba	88,245	15.044	76.13
Saskatchewan	64,187	11.380	74.19
Alberta	116,050	13.586	66.76
British Columbia	265,531	24.333	81.55
Northwest Territories	351	2.327	17.59
Yukon Territories	494*	5.691*	
Canada	2,794,489	23.535	84.91
	SUMMARY CONVICTION OTHER THAN TRAFFIC		
Newfoundland	6,896	2.608	37.42
Prince Edward Island	2,774	4.387	47.56
Nova Scotia	12,956	2.886	32.77
New Brunswick	14,002	3.950	30.29
Quebec	84,094	2.446	11.70
Ontario	143,052	3.395	8.77
Manitoba	22,422	3.592	19.38
Saskatchewan	18,916	3.340	21.52
Alberta	42,743	5.248	28.29
British Columbia	49,747	4.518	15.26
Northwest Territories	2,327	15.595	75.17
Yukon Territories	1,284*	14.757*	
Canada	396,537	3.288	12.75

*These figures represent 1960 to 1966; 1967 and 1968 are not reported. The Northwest Territories and the Yukon Territories are combined for Indictable Offences. They are reported separately for Summary Offences. Data taken from D.B.S. catalogues 85-201, 91-202 and 91-511.

of the percentage that indictable convictions represent of the total number of convictions, Alberta ranks fourth highest. The range of percentages is from a high of 7.24 percent (Yukon and Northwest Territories) to a low of 1.64 percent (Ontario). In Alberta indictable convictions account for 4.94 percent of all convictions compared to 2.35 percent for Canada as a whole.

For summary convictions other than traffic the rate ranges from 2.446 in Quebec to 15.595 in the Northwest Territories. The Yukon Territories show the second highest conviction rate (14.757), followed at some distance by Alberta (5.248), British Columbia (4.518), and Prince Edward Island (4.387). Canada's conviction rate is 3.288. The percentage that summary convictions other than traffic represent of the total ranges from 75.17 percent in the Yukon and Northwest Territories to 8.77 percent in Ontario. In Alberta, 28.29 percent of all convictions are for summary offences other than traffic. 12.75 percent of all convictions in Canada are for summary offences other than traffic.

Conclusion

The rate of convictions for all offences other than traffic is higher in Alberta than in any other province in Canada. However, the Yukon and Northwest Territories

have conviction rates for indictable and summary offences other than traffic well above those of Alberta, and British Columbia and Prince Edward Island have similar rates to those shown in Alberta. In terms of the percentage that indictable convictions represent of the total number of convictions, the disparity between Alberta and the rest of Canada is small. Alberta ranks fourth highest, falling behind the Yukon and Northwest Territories, Newfoundland and Nova Scotia. Manitoba and Saskatchewan show percentages similar to that of Alberta.

(4) ACQUITTALS - INDICTABLE OFFENCES

The Matthews Report concludes that a person who is charged with an offence is more likely to be found guilty in Alberta than in Canada as a whole. However, it is unclear to the reader what indicator was used in order to arrive at this conclusion. The Report states, "Examination of these tables suggests that Alberta has a lower acquittal rate than Canada." (emphasis added, 45) The tables to which it refers are composed solely of numbers and percentages. Where, then, does the rate come from?

In order to examine this conclusion, table 4 was constructed. This table contains the average percentage of charges resulting in acquittals from 1962 to 1968 on indictable conviction by nature of offence for the provinces, the territories and Canada as a whole. In

TABLE 4: AVERAGE PERCENTAGE OF CHARGES FOR INDICTABLE OFFENCES RESULTING IN ACQUITTALS FROM 1962 to 1968, BY NATURE OF OFFENCE, FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE.

	Newfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	N.W.T. & Yuk.	Can.
Against the person	(3) 5.52	(2) 5.05	(10) 16.29	(1) 4.49	(9) 15.49	(11) 23.59	(6) 12.49	(5) 11.76	(8) 14.23	(7) 13.79	(4) 10.03	17.90
Against property with violence	(1) 1.46	(11) 10.70	(9) 7.66	(2) 2.27	(6) 5.96	(10) 8.36	(3) 2.79	(5) 5.35	(4) 4.16	(7) 7.04	(8) 7.62	6.63
Against property without violence	(4) 3.20	(3) 2.57	(9) 9.34	(2) 2.01	(11) 12.63	(10) 9.88	(1) 1.89	(6) 5.22	(5) 4.55	(7) 6.03	(8) 6.73	8.33
Malicious offences against property	(2) 3.11	(1) 1.79	(10) 14.91	(5) 5.02	(7) 9.09	(11) 16.88	(3) 4.79	(4) 3.98	(6) 7.97	(8) 11.70	(9) 13.21	11.39
Forgery and Currency offency	(1) 0*	(2) 1.02	(9) 5.91	(7) 3.38	(11) 8.57	(10) 5.97	(3) 1.43	(6) 3.17	(4) 2.66	(8) 4.01	(5) 3.12	4.80
Other - Criminal Code	(3) 4.20	(1) .46	(8) 10.96	(2) 3.21	(10) 14.14	(11) 18.11	(4) 5.28	(7) 10.33	(6) 7.20	(9) 12.32	(5) 6.41	13.52
Federal Statutes	(3) 4.08	(1) 0*	(8) 14.63	(4) 7.14	(7) 14.00	(10) 22.80	(6) 10.16	(11) 24.49	(5) 9.65	(9) 16.59	(1) 0*	17.28
Total for all categories	(1) 2.46	(4) 4.35	(9) 10.33	(2) 2.76	(10) 11.39	(11) 11.76	(3) 3.33	(6) 6.08	(5) 5.56	(8) 9.14	(7) 7.63	9.40

* This may be due to the small number of offences in these categories.

The number in parentheses in each cell represents the rank order for each province and territory beginning with the lowest average percentage of charges resulting in acquittals.

This table is adapted from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix.

addition, the provinces and territories are ranked beginning with the lowest average percentage of acquittals.

For all categories, the average percentage of charges resulting in acquittals ranges from 2.46 percent in Newfoundland to 11.76 percent in Ontario. Alberta ranks fifth among the provinces and territories with 5.56 percent of all charges resulting in acquittals. The average percentage of acquittals in Canada as a whole is 9.40. Thus, although the average percentage of charges resulting in acquittals in Alberta is considerably lower than the average for Canada as a whole, four provinces have a lower average than Alberta. It is also worth noting that of the ten provinces and the territories, eight areas show a lower average percentage of acquittals than Canada as a whole.

For all categories, with the exception of crimes against the person, Alberta ranks within the lower middle range (fourth, fifth, and sixth) relative to the other provinces and territories. For crimes against the person Alberta ranks eighth.

Conclusion

The average percentage of charges resulting in acquittals for all categories of indictable offences in Alberta is smaller than in five other provinces and the

territories. The average percentage of charges resulting in acquittals is greater in Alberta than in four of the provinces. Relative to other provinces and the territories, Alberta acquits a larger percentage of persons charged with crimes against the person, but a smaller percentage of persons charged with property crimes with violence, forgery and currency offences.

(5) SUSPENDED SENTENCES AND INCARCERATION

The Matthews Report concludes that in Alberta the suspended sentence is used less than in Canada as a whole and incarceration is used more than in Canada as a whole. This conclusion was obtained by examining the number and percentage of charges for both indictable and summary offences that resulted in a suspended sentence or incarceration from 1962 to 1968 in Alberta and Canada as a whole.

Suspended Sentences

In order to examine the use of the suspended sentence in the provinces, the territories and Canada as a whole tables 5,6,7, and 8 were constructed from Matthews' data. Tables 5 and 6 show the average percentage of persons charged with indictable offences who received suspended

TABLE 5: AVERAGE PERCENTAGE OF PERSONS CHARGED FOR INDICTABLE OFFENCES WHO RECEIVED SUSPENDED SENTENCES WITH NO PROBATION FROM 1962 TO 1968, BY NATURE OF OFFENCE, FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE.

	Newfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	N.W.T. & Yuk.	Can.
Against the Person	(6) 9.55	(9) 11.10	(3) 7.29	(10) 13.37	(7) 10.08	(4) 7.83	(11) 19.66	(5) 7.93	(2) 6.19	(8) 10.66	(1) 5.20	9.26
Against property with violence	(4) 10.26	(11) 18.98	(5) 10.74	(6) 10.87	(9) 14.38	(1) 4.59	(7) 11.25	(10) 15.99	(8) 12.46	(3) 6.53	(2) 5.48	9.30
Against property without violence	(4) 13.24	(9) 18.74	(3) 11.37	(8) 16.94	(10) 21.38	(1) 8.13	(11) 28.86	(6) 15.55	(2) 11.14	(7) 16.74	(5) 15.18	14.27
Malicious offences against property	(4) 12.98	(1) .65*	(5) 14.48	(9) 23.57	(8) 16.84	(2) 11.88	(11) 28.37	(10) 24.51	(6) 15.38	(7) 15.48	(3) 12.86	15.00
Forgery and Currency offences	(8) 14.77	(11) 27.14*	(4) 9.56	(7) 13.05	(9) 19.06	(1) 5.92	(10) 20.80	(6) 10.74	(5) 10.47	(2) 8.50	(3) 9.13	10.68
Other - Criminal Code	(4) 7.35	(7) 8.51	(5) 7.99	(6) 8.03	(8) 8.62	(1) 4.80	(11) 19.89	(9) 9.43	(2) 6.78	(3) 6.89	(10) 11.89	6.50
Federal Statutes	(10) 27.14	(1) 0*	(9) 19.05	(3) 4.76	(7) 16.19	(2) 2.93	(8) 16.24	(7) 14.95	(5) 8.67	(4) 5.40	(6) 14.29	6.97
Total for all catagories	(5) 11.92	(10) 18.53	(2) 10.29	(7) 13.92	(9) 16.88	(1) 7.14	(11) 23.13	(8) 14.14	(3) 10.43	(6) 12.75	(4) 10.66	11.89

*This may be due to the small number of offences in these categories.

The number in parentheses in each cell represents the rank order for each province and territory beginning with the lowest average percentage of persons charged who received suspended sentences with no probation.

This table is adapted from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix.

TABLE 6: AVERAGE PERCENTAGE OF PERSONS CHARGED FOR INDICTABLE OFFENCES WHO RECEIVED SUSPENDED SENTENCES WITH PROBATION FROM 1962 to 1968, BY NATURE OF OFFENCE, FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE.

	Newfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	N.W.T. & Yuk.	Can.
Against the person	(10) 11.45	(6) 8.01	(8) 8.84	(9) 9.27	(2) 3.68	(11) 13.25	(5) 7.11	(4) 5.00	(3) 4.34	(7) 8.40	(1) 3.36	8.82
Against property	(6) 20.51	(2) 12.52	(11) 39.27	(7) 23.03	(5) 20.30	(10) 33.56	(9) 25.56	(3) 15.13	(4) 15.73	(8) 23.64	(1) 9.66	25.51
Against property without violence	(9) 23.50	(1) 5.36	(10) 25.92	(7) 18.84	(8) 20.28	(11) 26.49	(4) 16.00	(5) 16.12	(3) 10.88	(6) 16.43	(2) 5.88	20.37
Malicious offences against property	(8) 21.96	(1) 7.19	(10) 25.56	(9) 22.53	(4) 15.65	(11) 27.21	(7) 20.40	(5) 17.09	(2) 12.79	(6) 17.38	(3) 14.29	20.79
Forgery and Currency offences	(10) 21.78	(6) 14.76	(9) 21.37	(8) 18.87	(2) 4.95	(11) 27.23	(7) 16.34	(5) 13.15	(3) 7.99	(4) 11.81	(1) 2.86	17.14
Other - Criminal Code	(11) 15.21	(1) 1.97	(9) 11.08	(6) 8.19	(2) 2.70	(10) 11.79	(7) 9.65	(8) 10.80	(4) 6.02	(5) 6.92	(3) 3.88	8.24
Federal Statutes	(1) 0*	(1) 0*	(9) 5.95	(1) 0*	(6) 3.54	(11) 11.55	(10) 9.39	(5) 3.40	(8) 5.75	(7) 5.31	(1) 0*	10.90
Total for all Categories	(9) 20.83	(2) 7.86	(10) 23.13	(8) 16.81	(6) 15.73	(11) 24.54	(7) 16.27	(4) 13.70	(3) 10.35	(5) 15.19	(1) 6.39	18.46

* This may be due to the small number of offences in these categories.

The number in parentheses in each cell represents the rank order for each province and territory beginning with the lowest average percentage of persons charged who received suspended sentences with probation.

This table is adapted from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix.

sentences without probation and with probation respectively from 1962 to 1968. Tables 6 and 7 contain the same information for persons convicted for summary offences.

For all categories, the average percentage of persons charged with indictable offences who received suspended sentences without probation ranges from 7.14 percent in Ontario to 23.13 percent in Manitoba. Alberta ranks third among the provinces and territories with an average of 10.43 percent of persons charged receiving suspended sentences without probation. The average percentage for Canada as a whole is 11.89.

For three of the categories, malicious offences against property, forgery and currency offences, and offences against the federal statutes, Alberta ranks in the middle range. (i.e., fifth and sixth) For crimes against the person and against property without violence, Alberta is less likely, relative to the other provinces and territories, to use the suspended sentence without probation. For crimes against property with violence, Alberta ranks eighth, indicating a greater likelihood that the suspended sentence without probation would be used.

For all categories, the average percentage of persons charged with indictable offences receiving suspended sentences with probation ranges from 6.39 percent in the Yukon and Northwest Territories to 24.54

TABLE 7: AVERAGE PERCENTAGE OF PERSONS CHARGED FOR SUMMARY OFFENCES WHO RECEIVED SUSPENDED SENTENCES WITH NO PROBATION FROM 1962 TO 1968, BY NATURE OF OFFENCE, FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE.

	Newfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	N.W.T. & Yuk.	Can.
Criminal Code	(7) 5.98	(2) 2.20	(4) 2.37	(6) 5.73	(11) 9.43	(9) 9.15	(8) 6.93	(5) 3.74	(3) 2.24	(10) 9.35	(1) 1.81	7.79
Federal Statutes	(6) 2.11	(8) 3.25	(1) .44	(2) .45	(9) 3.69	(11) 6.43	(7) 2.67	(4) .92	(3) .47	(10) 3.87	(5) .98	3.04
Provincial Statutes	(10) 2.59	(4) .27	(6) .64	(1) .19	(8) 1.87	(9) 2.07	(7) 1.08	(3) .25	(2) .24	(11) 6.76	(5) .35	2.33
Municipal By-Laws	(9) 3.26	(5) .34	(4) .13	(3) .09	(10) 3.60	(7) 1.30	(11) 5.60	(6) 1.03	(2) .02	(8) 2.62	(1) 0	2.15
All Summary offences	(9) 3.10	(2) .55	(5) .73	(6) .79	(10) 3.64	(8) 2.34	(7) 1.83	(4) .64	(1) .31	(11) 6.53	(3) .61	2.64

The number in parentheses in each cell represents the rank order for each province and territory beginning with the lowest average percentage of persons charged who received suspended sentences without probation.

This table is adapted from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix.

TABLE 8: AVERAGE PERCENTAGE OF PERSONS CHARGED FOR SUMMARY OFFENCES WHO RECEIVED SUSPENDED SENTENCES WITH PROBATION FROM 1962 TO 1968, BY NATURE OF OFFENCE, FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE.

	Newfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	N.W.T.& Yuk.	Can.
Criminal Code	(11) 7.65	(2) .71	(3) 2.44	(4) 2.55	(8) 4.24	(10) 5.77	(9) 3.58	(5) 2.84	(6) 3.13	(7) 3.42	(1) .69	4.39
Federal Statutes	(4) 1.08	(10) 5.47	(3) .75	(2) .42	(5) 1.57	(11) 7.51	(8) 3.00	(7) 2.68	(6) 2.32	(9) 3.12	(1) .18	3.06
Provincial Statutes	(11) 1.16	(2) .01	(3) .03	(3) .03	(8) .21	(7) .12	(9) .29	(1) .009	(6) .09	(10) .31	(5) .08	.16
Municipal By-laws	(11) 4.96	(1) 0	(1) 0	(1) 0	(10) .27	(7) .03	(8) .07	(6) .01	(5) .004	(9) .09	(1) 0	.15
All Summary offences	(11) 2.25	(2) .17	(5) .29	(6) .32	(10) .63	(8) .43	(9) .52	(4) .24	(7) .34	(1) .06	(3) .19	.47

The Number in parentheses in each cell represents the rank order for each province and territory beginning with the lowest average percentage of persons charged who received suspended sentences with probation.

This table is adapted from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix.

percent in Ontario. Alberta again ranks third with 10.35 percent of persons charged receiving suspended sentences with probation. The average percentage for Canada as a whole is 18.46 percent.

For each category, with the exception of offences against the federal statutes, Alberta ranks second, third or fourth indicating that the suspended sentence with probation is used less frequently in Alberta relative to the other provinces.

For all summary offences, the average percentage of persons receiving suspended sentences without probation ranges from .31 percent in Alberta to 6.53 percent in British Columbia. This indicates that Alberta is less likely than any other province or territory to use the suspended sentence without probation for summary offences. It is interesting to note, however, that although Alberta ranks first for all summary offences, it ranks second for provincial statutes and municipal by-laws, and third for the criminal code and federal statutes.

For all summary offences, the average percentage of persons receiving suspended sentences with probation ranges from .06 percent in British Columbia to 2.25 percent in Newfoundland. Alberta ranks seventh with an average of .34 percent of all persons convicted of summary offences receiving suspended sentences with probation. In Canada, as a whole the average percentage is .47 percent.

Incarceration

Tables 9 and 10 were calculated in order to examine the use of incarceration in the provinces, the territories, and Canada as a whole. The tables show the average number of persons charged who were incarcerated between 1962 and 1968 for indictable and summary offences respectively. In addition, the provinces and territories are ranked beginning with the highest percentage of persons charged who were incarcerated.

The average percentage of persons charged with indictable offences who were incarcerated for all categories ranges from 63.27 percent in the Yukon and Northwest Territories to 37.62 percent in Newfoundland. In Alberta an average of 47.81 percent of all persons charged were incarcerated. For Canada as a whole the average percentage of persons charged who were incarcerated is 43.80 percent.

For the categories offences against the person, property offences with violence, property offences without violence and forgery and currency offences, Alberta ranks second falling behind the Yukon and Northwest Territories. Although Alberta has the highest percentage of persons incarcerated for indictable offences among the provinces, for these four categories, the differences between Alberta and the other provinces are not large

TABLE 9: AVERAGE PERCENTAGE OF PERSONS CHARGED FOR INDICTABLE OFFENCES WHO WERE INCARCERATED FROM 1962 TO 1968, BY NATURE OF OFFENCE, FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE.

	Newfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	N.W.T. & Yuk.	Can.
Against the person	(11) 27.24	(10) 28.48	(7) 33.03	(9) 29.08	(8) 33.54	(6) 39.51	(5) 40.52	(4) 42.15	(2) 44.77	(3) 42.77	(1) 61.69	38.45
Against property with violence	(3) 68.19	(7) 64.53	(10) 57.09	(6) 65.23	(11) 53.52	(8) 60.66	(9) 58.67	(4) 67.94	(2) 70.40	(5) 67.45	(1) 80.95	61.43
Against property without violence	(11) 30.71	(8) 33.33	(9) 32.53	(6) 37.77	(5) 39.36	(7) 34.93	(10) 31.59	(4) 41.18	(2) 42.88	(3) 42.40	(1) 55.65	37.59
Malicious offences against property	(3) 34.02	(10) 21.86	(8) 28.53	(4) 33.71	(5) 33.20	(9) 28.07	(11) 19.65	(7) 32.25	(2) 37.32	(1) 38.28	(6) 32.86	31.45
Forgery and Currency offences	(9) 60.80	(11) 50.95	(8) 64.09	(7) 64.16	(5) 72.42	(6) 64.56	(10) 59.78	(4) 75.11	(2) 78.90	(3) 78.24	(1) 80.87	69.72
Other - Criminal Code	(10) 32.33	(1) 64.48	(6) 43.50	(5) 45.55	(11) 32.00	(7) 41.47	(8) 36.06	(4) 48.51	(9) 32.54	(3) 55.06	(2) 65.37	41.10
Federal Statutes	(11) 0*	(10) 14.29*	(6) 45.95	(8) 28.81	(5) 60.86	(3) 66.07	(7) 38.44	(4) 62.46	(1) 79.54	(2) 72.89	(9) 28.57	72.14
Total for all categories	(11) 37.62	(8) 41.09	(10) 38.89	(5) 42.40	(7) 41.83	(6) 41.88	(9) 39.15	(3) 48.72	(4) 47.81	(2) 50.18	(1) 63.27	43.80

*This may be due to the small number of offences in these categories.

The number in parentheses in each cell represents the rank order for each province and territory beginning with the highest average percentage of persons charged who were incarcerated for indictable offences.

This table is adapted from Victor Matthews, Soci-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix.

TABLE 10: AVERAGE PERCENTAGE OF PERSONS CHARGED FOR SUMMARY OFFENCES WHO WERE JAILED FROM 1962 TO 1968, BY NATURE OF OFFENCE, FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE.

	Newfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	N.W.T.& Yuk.	Can.
Criminal Code	(11) 4.58	(9) 7.10	(10) 5.06	(8) 7.94	(7) 9.80	(4) 15.45	(2) 18.47	(6) 11.86	(5) 14.99	(3) 15.52	(1) 25.60	13.62
Federal Statutes	(11) .16	(9) .93	(7) 2.23	(10) .68	(8) 1.29	(6) 2.85	(4) 4.07	(5) 3.69	(3) 8.79	(2) 8.85	(1) 14.41	3.48
Provincial Statutes	(8) .19	(9) .17	(4) .64	(6) .40	(9) .17	(5) .58	(11) .16	(7) .24	(2) 3.51	(3) 2.73	(1) 13.83	1.07
Municipal By-laws	(6) .31	(1) 14.76	(5) .38	(10) .03	(3) 1.78	(8) .12	(2) 4.60	(6) .31	(9) .11	(10) .03	(4) .40	.99
All Summary offences	(11) .72	(2) 8.88	(10) 1.08	(7) 1.21	(5) 2.05	(9) 1.19	(6) 1.77	(8) 1.11	(3) 3.70	(4) 3.51	(1) 15.58	1.86

The number in parentheses in each cell represents the rank order for each province and territory beginning with the highest average percentage of persons charged who were jailed for summary convictions.

This table is adapted from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix.

enough to support the assertion that Alberta differs significantly from the other provinces.

For the category malicious property offences, Alberta ranks second. British Columbia has the highest percentage of persons incarcerated for indictable offences in this category.

For offences under the federal statutes, Alberta incarcerated a larger percentage of persons than any other area in Canada.

For all summary offences, the average percentage of persons charged who are incarcerated ranges from 15.58 percent in the Yukon and Northwest Territories to .72 percent in Newfoundland. Alberta ranks third, falling well behind the Yukon and Northwest Territories and Prince Edward Island, with an average of 3.7 percent of all persons charged being incarcerated. For Canada as a whole an average of 1.86 percent of all persons charged with a summary offence are incarcerated.

For the federal statutes and provincial statutes Alberta ranks third and second respectively. Alberta is less likely relative to the other provinces to incarcerate those persons who are charged under the municipal by-laws.

Conclusion

For summary convictions for all catergories Alberta

is least likely relative to the other provinces and territories to use the suspended sentence without probation.

For indictable convictions Alberta is on the average more likely to use incarceration that any other province or territory for offences under the federal statutes.

In no other category is Alberta most likely to use incarceration, or least likely to use the suspended sentence, relative to the other provinces and territories of Canada.

(6) INSTITUTIONAL POPULATION

The Matthews Report concludes that Alberta's increase in institutional population is greater than the population increase and is higher than any other province in Canada. This conclusion is based on the percentage difference between the number of persons detained in provincial adult institutions in 1960 and in 1970 for each province.

In order to control for population changes between 1960 and 1970 the percentage change in the rate of persons institutionalized (i.e., the number of persons detained in adult provincial institutions for every 1,000 persons between ages of 15 and 69) was calculated in addition to the percentage change in the number of

TABLE 11: PERCENTAGE CHANGE IN THE NUMBER AND RATE OF PERSONS INSTITUTIONALIZED IN ADULT PROVINCIAL INSTITUTIONS FROM 1960 TO 1970 FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE.

	Percentage Change	
	Number	Rate (per 1,000 persons 15 - 69 years of age)
Canada	8%	-16%
Newfoundland	-15	-31
Prince Edward Island	-30	-37
Nova Scotia	- 9	-18
New Brunswick	16	2
Quebec	39	9
Ontario	-10	-31
Manitoba	- 9	-19
Saskatchewan	22	13
Alberta	71	25
British Columbia	16	21
Yukon and Northwest Territories	227	60

This table is adapted from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix.

persons institutionalized from 1960 to 1970. The data were calculated for the territories and Canada as a whole as well as the provinces. Table 11 contains this information.

The percentage change in the number of persons institutionalized between 1960 and 1970 ranges from an increase of 227 percent in the Yukon and Northwest Territories to a decrease of 30 percent in Prince Edward Island. Alberta shows an increase in the number of persons institutionalized well above that of any other province. The difference between Alberta and Quebec which is the next highest province is 32 percent.

The percentage change in the rate of persons institutionalized between 1960 and 1970 ranges from an increase of 60 percent in the Yukon and Northwest Territories to a decrease of 37 percent in Prince Edward Island. Although Alberta shows the largest increase in the rate of persons institutionalized for the provinces, the difference between Alberta and British Columbia which is the next highest province is only 4 percent.

Conclusion

The Yukon and Northwest Territories show by far the largest increase in both the number and rate of persons institutionalized in adult provincial institutions

from 1960 to 1970 in Canada. Alberta increased in both the number and rate more than any of the other provinces. However, when the percentage change in the rate of persons institutionalized is considered, as opposed to the percentage change in the number of persons institutionalized, the difference between Alberta and the other provinces is considerably lower. This means that, when allowances are made for population increases and decreases, Alberta's justice system does not incarcerate offenders at a significantly higher rate than that of all other provinces.

(7) INCARCERATION

The Matthews Report concludes that Alberta's use of incarceration for minor offences is greater than any other country in the Western World. This conclusion is based upon the records for only one year. Matthews calculated (a) the number and rate of incarceration for convictions, in 1967 for the provinces and Canada as a whole, and (b) the incarceration to conviction ratio in 1967 for the provinces and Canada as a whole. These calculations were made for both summary and indictable offences.

In order to control for the possibility that 1967 may have been a unique year for any of the provinces with regard to incarceration, I have calculated the average

number of incarcerations, the average incarceration rate, and the average incarceration to conviction ratio from 1962 to 1968 for indictable offences, summary offences, and all offences. Tables 12 and 13 contain this information as well as similar information for the Yukon and Northwest Territories.

The average incarceration for conviction rate for indictable offences varies from .645 in Prince Edward Island to 6.238 in the Yukon and Northwest Territories. Alberta ranks third in Canada, following the Yukon and Northwest Territories, and British Columbia with an average incarceration for convictions rate of 2.504. The incarceration rate for Canada as a whole is 1.348.

For summary offences, Alberta's incarceration rate falls well below both the Yukon and the Northwest Territories. The same is true when incarceration for all convictions is considered. However, in each instance both Alberta and British Columbia have higher incarceration rates than any of the remaining provinces.

The average incarceration to conviction ratio for indictable offences is lower in Alberta than in the Territories, British Columbia and Saskatchewan. The ratios range from .376 in Newfoundland to .633 in the Yukon and Northwest Territories. The average incarceration to conviction ratio for Canada as a whole is .438.

TABLE 12: INCARCERATION FOR CONVICTIONS - AVERAGE NUMBER AND RATE PER 1,000 POPULATION BETWEEN THE AGES OF 15 AND 69 FROM 1962 TO 1968 FOR THE PROVINCES, THE TERRITORIES AND CANADA AS A WHOLE.

	INDICTABLE CONVICTIONS				SUMMARY CONVICTIONS		ALL CONVICTIONS	
	Gaol	Pen.	Total	Rate	Gaol	Rate	Gaol	Rate
Newfoundland	246.00	33.57	277.00	1.027	111.00	.414	388.00	1.441
Prince Edward Island	28.14	12.42	39.14	.645	300.85	4.821	341.43	5.466
Nova Scotia	393.43	182.57	576.00	1.269	329.57	.726	905.57	1.995
New Brunswick	426.00	118.29	544.29	1.518	277.86	.778	822.47	2.296
Quebec	2,994.67	791.83	3,786.50	1.089	6,152.83	1.762	9,939.33	2.850
Ontario	3,549.29	962.29	4,511.57	1.056	10,166.14	2.364	14,677.71	3.420
Manitoba	760.29	176.00	936.29	1.599	1,449.29	2.482	2,385.57	4.081
Saskatchewan	857.71	126.00	983.71	1.735	798.29	1.410	1,780.43	3.142
Alberta	1,878.43	307.29	2,185.71	2.504	5,884.29	6.650	8,070.00	9.154
British Columbia	2,601.57	466.00	3,067.57	2.703	6,571.00	5.841	9,638.57	8.557
Yukon & Northwest Territories	138.43	10.29	148.71	6.238	208.60 507.29	24.105 33.320	614.43	36.732
Canada	13,446.14	2,605.00	16,523.85	1.348	31,818.43	2.583	48,342.29	3.931

Data taken from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council, 1972, Appendix
The conviction rate was calculated for each year from 1962 to 1968 for each area. These rates were then averaged to arrive at the figure presented in this table.

TABLE 13: AVERAGE INCARCERATION TO CONVICTION RATIO FOR INDICTABLE AND SUMMARY OFFENCES FROM 1962 TO 1968 FOR THE PROVINCES, THE TERRITORIES, AND CANADA AS A WHOLE.

	INDICTABLE			SUMMARY		
	CONVICTION	INCARCERATION	RATIO	CONVICTION	INCARCERATION	RATIO
Newfoundland	763.43	284.71	.376	15,957.57	111.00	.007
Prince Edward Island	106.86	40.71	.411	4,769.00	300.86	.089
Nova Scotia	1,497.14	580.57	.389	31,083.43	329.51	.011
New Brunswick	1,284.86	548.43	.427	23,811.29	277.57	.012
Quebec	9,062.83	3,770.50	.418	270,266.33	5,586.00	.021
Ontario	15,183.43	6,328.71	.411	865,042.14	10,159.00	.012
Manitoba	2,489.57	972.57	.392	86,196.43	1,449.29	.018
Saskatchewan	2,036.43	985.00	.488	73,736.71	798.29	.011
Alberta	4,581.57	2,185.00	.478	166,220.43	5,873.71	.037
British Columbia	6,237.00	3,116.57	.502	189,013.14	6,570.00	.035
Yukon & Northwest Territories	232.86	148.86	.633	4,217.57	656.29	.156
Canada	42,179.85	18,423.14	.438	1,691,275.43	10,380.86	.006

This table is adapted from Victor Matthews, Socio-Legal Statistics in Alberta. Human Resources Research Council 1972, Appendix.
The incarceration to conviction ratio was calculated for each year from 1962 to 1968 for each area. These ratios were then averaged to arrive at the figure presented in this table.

For summary offences the average incarceration to conviction ratio varies from .007 in Newfoundland to .156 in the Yukon and Northwest Territories. Prince Edward Island shows the second largest ratio of .089. Alberta ranks third with an average incarceration to conviction ratio of .037. The average ratio for Canada as a whole is .006.

Conclusion

For indictable convictions, Alberta has an average incarceration for convictions rate lower than that of the Yukon and Northwest Territories and British Columbia. For summary convictions and for the total of all convictions Alberta has an incarceration for conviction rate lower than the Yukon and Northwest Territories and similar to British Columbia, but higher than any other province.

The average incarceration to conviction ratio is lower in Alberta than in the Yukon and Northwest Territories for both indictable and summary offences. For indictable offences, the average incarceration to conviction ratio is lower in Alberta than in British Columbia and Saskatchewan and for summary offences the ratio is lower in Alberta than in Prince Edward Island.

ALBERTA IN THE CANADIAN CONTEXT

Offences and Persons Charged

For the criminal code, the rate of offences reported to the police and the rate of persons charged with offences increased very little between 1962 and 1969, in Alberta.

Although there was a larger increase in both the offence rate and the rate of persons charged with offences for the provincial statutes, these increases are not dramatic.

Alberta shows a lower ratio of persons charged to offences cleared by charge for the criminal code, the provincial statutes, and the municipal by-laws than any other province or the Territories. The differences between Alberta and the other areas of Canada are, however, small.

Convictions and Acquittals

The number of persons convicted for all offences other than traffic per 1,000 population between the ages of 15 and 69 is higher in Alberta than in any other province in Canada. However, the Yukon and Northwest Territories have conviction rates for indictable and summary

offences other than traffic well above those of Alberta, and British Columbia and Prince Edward Island have rates similar to those shown in Alberta.

The average percentage of charges resulting in acquittals for all categories of offences in Alberta is smaller than in five other provinces and the Territories. The average percentage of charges resulting in acquittals is greater in Alberta than in four of the provinces. Relative to the other provinces and the Territories, Alberta acquits a larger percentage of persons charged with crimes against the person, but a smaller percentage of persons charged with property crimes with violence and forgery and currency offences.

Sentencing - Indictable Offences

The courts in Alberta are not likely to impose the suspended sentence with probation for indictable offences relative to the other provinces and territories except where these offences are against the federal statutes. The suspended sentence without probation is imposed relatively frequently for property offences with violence and relatively infrequently for offences against the person and property offences without violence.

For the categories offences against the person, property offences with violence, property offences without violence and forgery and currency offences, Alberta

ranks second in terms of incarceration falling behind the Yukon and Northwest Territories. Although Alberta has the highest percentage of persons incarcerated for indictable offences among the provinces for these four categories, the differences between Alberta and the other provinces are not large enough to support the assertion that Alberta differs significantly from the other provinces. For offences under the federal statutes, Alberta incarcerated a larger percentage of persons than any other area in Canada.

Sentencing - Summary Offences

Relative to the other provinces and territories of Canada the courts in Alberta are not likely to impose the suspended sentence without probation for summary offences. On the other hand, the suspended sentence with probation is imposed relatively frequently.

In Alberta, a prison sentence is imposed relatively frequently for summary offences against the provincial statutes and the federal statutes. However, the imposition of a prison sentence is relatively infrequent for summary offences against municipal by-laws.

Incarceration

Alberta showed an increase in both the number and

rate of persons institutionalized in adult provincial institutions from 1960 to 1970 which was greater than that of any other province, but less than that of the Yukon and Northwest Territories. However, when allowances are made for population increases and decreases, Alberta's justice system does not incarcerate offenders at a significantly higher rate than that of all other provinces.

For indictable convictions, Alberta has an average incarceration rate which is lower than that of the Yukon and Northwest Territories and British Columbia. For summary offences and for the total of all offences Alberta has an average incarceration for conviction rate lower than the Yukon and Northwest Territories and similar to British Columbia, but higher than any other provinces.

The incarceration to conviction ratio indicated that Albertan courts are relatively likely to impose a prison sentence for convictions on both indictable and summary offences. The Yukon and Northwest Territories are more likely than Alberta to impose a prison sentence for convictions on both indictable and summary convictions. British Columbia and Saskatchewan are more likely than Alberta to impose a prison sentence on those convicted of indictable offences and Prince Edward Island is more likely than Alberta to impose a prison sentence on those convicted of summary offences.

In conclusion, it appears that the Matthews Report

draws an exaggerated picture of the differences between the legal-justice system of Alberta and those of other jurisdictions in Canada.

CHAPTER FOUR

DATA AND MEANING

The Matthews Report argues that "Throughout, the data suggest that the disparity between Alberta and Canada increases as one moves through the legal justice system. This disparity is not necessarily the responsibility of the correctional institutions, for this part of the legal-justice system is totally dependent upon the police and courts for input. Only by examination of the recidivism rate (information not currently available) can the impact of correctional institutions be determined. It is the police and the courts which must bear the responsibility for a concept of justice in Alberta that differs significantly from that of Canada as a whole". (65)

The conclusion indicates that there is a disparity between Alberta and Canada throughout the legal-justice system. This statement is testable and will be examined in detail.

This disparity is said to increase as one moves through the legal-justice system from the police to the courts and finally to the correctional institutions. This statement is logical only if it is assumed that the disparity is unilateral (that is, one-sided) throughout the analysis. In order to determine whether this disparity is, in fact, unilateral, one must first ascertain the meaning of the various data manipulations contained within the report. When these

meanings are determined they must be related to the legal justice systems in question. The Matthews Report merely assumes that the disparity is unilateral and there is no discussion of the criterion used to make this assumption.

The Matthews Report argues that the correctional system is not necessarily responsible for the disparity between the legal-justice systems of Alberta and Canada as a whole since the correctional system relies upon the police and the courts for input. The faulty logic upon which this argument is based is revealed in the consideration of the logical extension of the argument. By extension one could argue, then, that the courts are not necessarily responsible for the disparity since they rely upon the police for input and the police, in turn, are not necessarily responsible for the disparity since they rely upon the general population for input. It is apparent, then, that the consideration of input is neither a reliable nor a practical means for assigning responsibility for any disparities that may be found between the legal-justice systems.

The wording of the text in the Matthews Report indicates that the fact that it is not possible to determine the impact of the correctional institutions at the present time is a premise for the conclusion that the police and courts must be held responsible for disparities found between the legal-justice systems. One cannot legitimately assume, however, that because the impact of the correctional

system cannot be determined, that the police and the courts must therefore be responsible for any disparities that may be revealed. The source of such disparities can be determined only through an accurate assessment of the impact of each part of the legal-justice system.

On "Justice"

The disparity between Alberta and Canada can be linked to a concept of justice only if the concept of justice is itself defined and its operations made observable. Nowhere in the Matthews Report is the concept of justice defined or even mentioned. The data in the report consist entirely of official statistics and official statistics tell us nothing about the general Canadian concept of justice nor the concepts existent in each of the provinces. Furthermore, this conclusion is based on the assumptions that the police and courts, in fact, have a "concept of justice" and that this concept is not a function of the "concept of justice" held by the general population. Rather, such a conclusion assumes that a "concept of justice" is imposed upon the population by the way in which the police and courts deal with offenders and offences. In addition, the assumption that the "concept of justice" held by the police and courts is more influential in their disposition of cases and persons than are the everyday operating procedures of the involved agencies is also implicit in the conclusion. These assumptions are not only without support from the data presented,

but they may be questioned on logical grounds. Thus the conclusion that the concept of justice in Alberta differs from that of Canada as a whole, and that it is the police and courts which make this difference, is unjustified.

Data and Inferences

The data manipulations and the inferences drawn from the data in the Matthews Report will be examined in conjunction with the data analysis presented in Chapter Three of the present research in order to determine whether or not there is a disparity between Alberta and Canada and whether or not this disparity increases as one moves through the legal-justice system. In addition, the meaning of the data manipulations will be examined and an assessment of what inferences can properly be drawn from the data will be presented. Also, the concept of justice will be examined in greater detail.

DISPARITY BETWEEN ALBERTA AND CANADA

The disparity between Alberta and Canada found in the Matthews Report is based upon the comparison of Alberta to Canada as a whole for the following data:

a) the change from 1962 to 1969 in the offence rate and the rate of persons charged,
b) the ratio of persons charged with the number of offences cleared by charge,

c) the rate and percentage of indictable and summary convictions,

d) the percentage of charges resulting in acquittals, and

e) the percentage of charges resulting in suspended sentences and incarceration.

Two related, but separate, issues are raised. First, Matthews is comparing two different units of analysis - provinces and countries. The Canadian figures are an aggregate of the figures for all of the provinces and the territories. Aggregate figures, of course, conceal many interesting variations. Extreme scores become buried in the aggregate figure and can distort it. Thus, in order to get an accurate picture of the Albertan legal-justice system, it is necessary to compare Alberta with all other provinces and territories rather than with an aggregate figure for Canada as a whole.

The second issue is that the data for Alberta is contained within the Canadian data. Matthews recognized this problem and proposed a solution in the following passage. "In addition, comparison of tables for provincial and federal data must recognize that the provincial information is contained within that of the federal. That is, when comparing Alberta's offence rate with that of Canada's it must be remembered that Alberta also contributed to Canada's total. Rather than subtract the provincial total from that of Canada, it was decided to accept the total as given". (23) This, however,

does not alleviate what is essentially a logical problem. If we compare Albertan data to the Canadian data as is, we are in essence comparing Alberta to itself plus the other provinces and territories. If, however, we remove Alberta from the Canadian statistics and then compare Alberta to Canada, we are comparing a part and an incomplete whole. Thus, again, the resolution of this problem requires that we compare Alberta with all other provinces and territories rather than, or in addition, to a Canadian aggregate.

Offence Rate and Rate of Persons Charged

After examining the offence rate and the rate of persons charged for both the provincial statutes and the criminal code, the Matthews Report concludes that "The pattern is one of an increasing number of offences reported to the police, with Alberta increasing at a rate well above that of Canada". (36) This conclusion is based, in part, on a calculation error. Thus for the criminal code the increase in both the offence rate and the rate of persons charged is significantly less for Alberta than for Canada as a whole. In addition, when these rates are compared to the other provinces and territories only two provinces have a lesser increase in the offence rate and one province is lower by one percent for the rate of persons charged. For the provincial statutes, the increase in both the offence rate and the rate of persons charged is greater for Alberta than for Canada as a whole.

However, we notice that Alberta is not unique in that other provinces have higher increases. In addition, it is interesting to note that for the rate of persons charged seven provinces show an increase higher than that of Canada as a whole. This situation, then, is an example of the Canadian aggregate figure being 'pulled' by extreme scores. (i.e., the decreases shown in the Yukon and Northwest Territories, Quebec, and Ontario).

We may conclude, then, that although Alberta ranks low in both the offence rate and the rate of persons charged under the criminal code and that Alberta ranks within the upper middle range for these rates under the provincial statutes, the province is not unique or widely divergent within the Canadian context in terms of the increasing number of offences reported to the police and the increasing number of persons charged with offences.

Persons Charged and Offences Cleared by Charge

After examining the ratio of persons charged with offences with the number of offences cleared by charge the Matthews Report concludes that "with few exceptions, however, the pattern is consistent; Canada averages a higher rate of persons charged than offences cleared by charge, than does Alberta; suggesting that the national trend is to charge different persons with the same offence while the

Albertan trend is to charge the same persons with different offences". (35)

This conclusion suggests that two opposing trends are occuring. One trend is that the number of offences cleared by charge exceeds the number of persons charged with offences. This is the trend that occurs in Alberta. The other trend is that the number of persons charged exceeds the number of offences cleared by charge. Matthews calls this the national trend. It must be remembered, however, that the national trend is an aggregate composed of the trends in operation in each province and territory. Thus the national trend may be envisioned, in this case, as a sum of vectors. That is, it is the sum of the trends pulling in one direction plus the trends pulling in the opposite direction. For example, for the provincial statutes, the national trend is that the number of persons charged exceeds the number of persons cleared by charge. This trend is composed of five provinces where the opposite trend is in effect plus five provinces and the territories where the same trend is in effect. Thus the aggregate figure (national trend) is misleading if it is intended to represent the way things occur in the entire country. Again, the solution to the problem lies in the examination of the ratios for all provinces and territories within the country as opposed to comparing one province with a "national trend".

When Alberta is examined in comparison with all other provinces and the territories, it is apparent that in the majority of instances, both in Canada as a whole and in the individual provinces and the territories on the average, the number of persons charged exceeds the number of offences cleared by charge. There are however, several instances where the reverse is true and these instances are not restricted to Alberta, although Alberta does show the lowest ratio of the number of persons charged to the number of offences cleared by charge for the criminal code, the provincial statutes, and the municipal by-laws.

Indictable and Summary Convictions

The Matthews Report concludes that in Alberta the rate of convictions for all offences other than traffic are well above those of Canada as a whole. Also, according to the Report, the contribution of indictable convictions to the total number of convictions is much higher in Alberta than in Canada as a whole. When Alberta is examined in comparison with all other provinces and the territories, it holds true that the rate of convictions for all offences other than traffic is higher in Alberta than in any other province in Canada. However, the Yukon and Northwest Territories have conviction rates for indictable and summary offences other than traffic well above those of Alberta, and British Columbia and Prince Edward Island have similar

rates to those shown in Alberta. In terms of the percentage that indictable convictions represent of the total, the disparity between Alberta and the rest of Canada is small. Alberta ranks fourth highest, falling behind the Yukon and Northwest Territories, Newfoundland, and Nova Scotia. Manitoba and Saskatchewan show percentages similar to that of Alberta.

Acquittals - Indictable Offences

After examining the D.B.S. statistics concerning acquittals in Alberta and Canada as a whole from 1962 to 1968 the Matthews Report concludes that "the pattern suggests that a person who is charged with an offence is more likely to be found guilty in Alberta than in Canada as a whole." (45) When Alberta is examined in comparison with all other provinces and territories we find that Alberta is not unique within the Canadian context. Although the average percentage of charges resulting in acquittals in Alberta is considerably lower than the average for Canada as a whole, four provinces have a lower average than Alberta. It is also worth noting that of the ten provinces and the territories, eight areas show a lower average percentage of acquittals than Canada as a whole.

Suspended Sentences

The Matthews Report concludes that in Alberta the suspended sentence is used less than in Canada as a whole and incarceration is used more than in Canada as a whole. For all indictable offences Alberta ranks third lowest in the use of the suspended sentence both with and without probation. This means, then, that two provinces or territories are less likely on the average to use the suspended sentence for indictable offences than Alberta. For all summary offences Alberta is least likely relative to the other provinces and territories to use the suspended sentence without probation. However, Alberta ranks seventh among the provinces and territories with regards to the use of the suspended sentence with probation. Thus, five provinces and the territories are less likely on the average to use the suspended sentence with probation and four provinces are more likely on the average to use the suspended sentence with probation than Alberta.

Incarceration

Alberta ranks fourth among the provinces and territories with regards to the percentage of persons incarcerated for all indictable offences and third with regards to the percentage of persons incarcerated for all summary offences. This means, then, that in each case at least one province

and the territories are more likely on the average than is Alberta to use incarceration as an alternative.

Alberta increased in both the number and rate of persons institutionalized in adult provincial institutions from 1960 to 1970 more than any other province but less than the Yukon and Northwest Territories. However, when allowances are made for population increases and decreases, Alberta's justice system does not incarcerate offenders in adult provincial institutions at a significantly higher rate than that of all other provinces.

The disparity between Alberta and the other provinces of Canada found in the Matthews Report is based upon statistics for 1967 only for the following data:

a) the incarceration rate, and

b) the incarceration to convictions ratio.

The fact the data was examined for one year only raises the possibility that the year chosen for analysis was unique for some or all of the provinces and the territories of Canada with regard to incarceration practices. Law and law enforcement practices change from year to year. These changes do not always occur uniformly throughout the country. Thus what may appear in the statistics as a disparity between areas for one year may be due only to the specific changes which occured in a particular province in that year and may not reflect a consistant disparity. Conclusions based on data analysis for one year only are unreliable. The solution to this problem

requires that the average over a period of several years be examined.

The Matthews Report concludes that Alberta's use of the incarceration for minor offences is greater than any other country in the Western World. The reasoning behind this conclusion is as follows - "These data point out that Alberta has the highest incarceration to conviction ratio for any province in Canada....it may be concluded that Alberta differs significantly (does not belong with the rest of Canada) in the extent to which incarceration is used as a sanction for summary convictions. This disparity is of even greater significance in that Canada has the highest incarceration rate of the Western World. (Cousineau and Veevers, 1972) This means that Alberta's use of incarceration for minor offences is greater than any other country in the Western World."[1] (Matthews, 1972:1963)

While it is true that Alberta has the highest incarceration rate and also the highest incarceration to conviction ratio for all of the provinces for 1967, this conclusion does not hold when the Yukon and Northwest Territories are considered and when the incarceration to convictions ratio is averaged from 1962 to 1968 and compared for all provinces and territories within Canada.

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1. The incarceration statistics used in the Cousineau and Veevers study are statistics for the year 1960. The Matthews Report analyzes incarceration statistics for the year 1967. These sets of data are, therefore, not comparable.

For summary convictions, Alberta has an incarceration rate lower than the Yukon and Northwest Territories, and similar to British Columbia but higher than any other province. The average incarceration to convictions ratio for summary offences is lower in Alberta than it is in the Yukon and Northwest Territories and Prince Edward Island.

It is interesting to note that when Matthews compares Alberta to the rest of Canada (i.e., all other provinces), the Yukon and Northwest Territories are omitted from the analysis. No reason is given for this omission in the report, although it was perhaps felt that because of the disparity between the territories and the provinces in terms of economic, social, and political considerations, it would not be legitimate to compare the legal-justice systems. However, if one is to obtain an accurate picture of the legal-justice systems within Canada as a unit then the territories must be considered since they are politically and legally a sub-unit of Canada.

Alberta in the Canadian Context

To test the Matthews's allegation that Alberta deviates from the rest of Canada in the operation of its criminal justice system, and that it deviates in a unilaterally punitive direction, the data of the Matthews Report have been re-examined with the provision of two sensible

qualifications:

(1) Alberta has been compared to all other provinces and the territories, and

(2) a period of years, (in most cases 1962 to 1968, and in other cases 1960 to 1970) rather than one year, has been used as the basis of comparison.

When these qualifications are applied to the figures in the Matthews Report, it is apparent that Alberta differs only slightly from Canada as a whole in its administration of criminal justice. Alberta ranks at the extremity of a range of judicial responses on only two phases of procedure:

a) Alberta has the lowest average ratio of the number of persons charged to the number of offences cleared by charge for the criminal code, the provincial statutes, and the municipal by-laws, for the years 1962 to 1969.

b) Alberta is less likely on the average (from 1962 to 1968) to use the suspended sentence without probation for summary offences than any other jurisdiction in Canada.

Alberta ranks at the extremity of a range of judicial responses -- when compared with other provinces, but not with the territories -- on three additional phases of procedure:

a) Alberta has a high rate per population of indictable convictions.

b) Between 1960 and 1970 Alberta showed a large increase in both the number and rate of persons detained in adult provincial institutions.

c) The average (from 1962 to 1968) incarceration rate per population for summary offences is high in Alberta.

Thus we conclude that although the legal-justice system in Alberta may differ from other systems in Canada in certain aspects, the data indicate that the disparity is not large, widespread or unilateral. In addition, we have found that the disparity between Alberta and Canada as a whole does not increase as one moves through the legal-justice system from the police to the courts and finally to the correctional institutions. This is tantamount to saying (a) that each justice system in Canada varies somewhat from "national norm", if there were such, and (b) that Alberta is not the extremely punitive jurisdiction depicted by the Matthews Report.

THE RESPONSIBILITY OF THE POLICE AND THE COURTS

The data analysis section of the Matthews Report is divided into three sections - police statistics, court statistics, and correctional statistics. Each section contains a description of the tasks of that particular branch of the legal-justice system, an assessment of the availability

of statistics which describe the operations of the particular branch of the legal-justice system, and an analysis of the statistics from which the conclusions describing Alberta's justice system in the Canadian context were drawn.

The Matthews Report, however, does not accurately assess the meaning of the data analysis it presents. The two major weaknessess in this respect are (a) that in some instances the relationship between the data presented and the particular section of the legal-justice system they intend to describe is unclear, and (b) that in some instances, inferences are drawn without proper evaluation of the assumption implicit in the logic.

The Police

The data analyzed in the section entitled "Police Statistics" in the Matthews Report was taken from D.B.S. publication number 85-205- Crime Statistics (Police). The introduction to the 1969 edition of this publication describes how this information is collected; "Police departments are required to send monthly crime statistics returns to D.B.S. covering nineteen Criminal Code classifications, Narcotic Control Act, Controlled Drugs under the Food and Drug Act, other Federal Statutes and Municipal By-laws."

In this section of the report Matthews examined:

a) the change in the offence rate between 1962 and 1969,

b) the change in the rate of persons charged between 1962 and 1969, and

c) the ratio of the number of persons charged to the number of offences cleared by charge.

It was found that all areas of Canada show an increase in the offence rate for the criminal code and the provincial statutes from 1962 to 1969. The D.B.S. catologue states that "in reporting of offences, police include the number reported or known to the police, unfounded, actual number, offences cleared and persons charged. The term 'unfounded' means that the investigation established the offence did not happen or was not attempted. 'Unfounded' offences are subtracted from those 'reported or known to the police' to arrive at the 'actual number of offences'." (Dominion Bureau of Statistics, 85-205,1964:7) The following are scored as offences reported or known to the police;

1) offences reported by telephone,
2) offences reported by a private citizen directly to a police station,
3) offences coming to the attention of a policeman on the beat or in a patrol car either from his own observation or as reported to him,
4) policeman making an arrest during or after the commission of a crime before the complaint has been reported,
5) private prosecutions of a criminal nature handled completely by the courts. (Dominion Bureau of Statistics 85-205, 1964:109)

Thus several inferences may be drawn regarding the increase in the offence rate. The most obvious inference is that more offences per person are being committed. This may be due to changes in the composition of the population in age, sex, and other social characteristics, or to varying economic and political conditions. On the other hand, it may be due to a decreased efficiency of the legal-justice regarding the prevention of crime.

It is a well known fact among sociologists and others concerned with the issue of crime that there exists a 'dark' figure in relation to criminal offences. That is, only a small proportion of the total number of offences actually committed come to the attention of the police. The exact size of this proportion is unknown. Any increase in the proportion of offences that become known to the police would appear in the statistics as an increase in the offence rate. However, an increase in the proportion of offences known to the police can result from either (a) increased vigilance or willingness to report offences on the part of individual citizens, or (b) increased efficiency on the part of the police, or, (c) some combination of these factors, as well as (d) from an increase in the actual number of offences committed.

Official statistics on crime have an uncertain relation with criminal activity. D.B.S. figures that report increases in offence rates, for example, may reflect extensions or improvements in the reporting practices of the police rather

than, or as well as, actual changes in criminal activity. Similarly a change in the rate of persons charged could indicate a change in reporting practices rather than an actual change in the number of persons committing crimes.

According to the D.B.S. data, the rate of persons charged increased in every area in Canada for the criminal code between 1962 and 1969. For the provincial statutes the rate of persons charged increased in every area with the exception of the Yukon and Northwest Territories, Quebec, and British Columbia, all of which showed a decrease.

One inference that could be drawn, then, is that the number of persons committing offences has increased in most areas of Canada. However, it is plausible that the number of persons actually committing offences has remained the same while the proportion of these persons who are charged has increased. If we could ascertain that this was the case, then, we could conclude that the increase in the rate of persons who are charged was due to a change in police practices. This increase could result from (a) increased efficiency on the part of the police in the apprehension of offenders or (b) the enforcement of certain laws which has previously been ignored.

In the majority of instances, both in Canada as a whole and in the individual provinces and territories, on the average number of persons charged exceeds the number of offences cleared by charge. There are, however, several

instances where the reverse is true.

In those instances where the number of persons charged exceeds the number of offences cleared by charge, two inferences may be drawn. The first is that the police tend to charge different persons with the same offence in order to determine which person actually committed the offence. The alternative inference is that offences tend to be committed by several persons and therefore several persons are charged in connection with only one offence.

Alternatively, when the number of offences cleared by charge exceeds the number of persons charged, two inferences again emerge. We may conclude that the police tend to charge the same person with several offences, in which case the police may be relatively certain that, once arrested, a person will be convicted of at least one offence. However, we might conversely conclude that a person is likely to commit more than one offence prior to the time of his apprehension.

Although the data presented in the section entitled "Police Statistics" may be informative in and of itself, it is not possible, using these data, to draw definitive inferences regarding the impact of the police in Canada or in any specific area of Canada.

The Courts

The data analyzed in the Matthews Report under the

heading "Court Statistics" were taken from D.B.S. publication number 85-201- Statistics of Criminal and Other Offences. "The data contained herein were reported by Registrars of the Assizes and General Sessions of the Peace, Clerks of County and District Courts, officials of Magistrate's and Family Courts, and Justices of the Peace." (Dominion Bureau of Statistics, 85-201, 1969:Preface) Specifically, the Matthews Report examines;

a) The conviction rate for indictable offences, summary traffic offences and summary offences other than traffic,
b) the percentage that convictions for indictable offences, for summary traffic offences and for summary offences other than traffic represent of the total number of convictions,
c) the percentage of charges resulting in acquittals,
d) the percentage of persons charged who receive suspended sentences,
e) the percentage of persons charged who are incarcerated.

Convictions

The Matthews Report examines the number of convictions per 1,000 population between the ages of 15 and 69 for Alberta and Canada as a whole. This conviction rate, however, tells us nothing about the operation of the courts since the

number of convictions which occur in any given area is a function, first, of the number of persons charged with an offence in that area and, second, of the operation of the courts. In other words, Matthews' choice of a denominator in this case is inappropriate. Since we are interested, at this point, in the operation of the courts, a more appropriate statistic would be the ratio of the number of convictions to the number of persons charged with an offence. This statistic would be an appropriate measure of the propensity of the courts to convict persons charged with an offence.

An examination of the percentage that indictable convictions, summary convictions other than traffic, and summary traffic convictions represents of the total number of convictions is contained in the Matthews Report. The meaning of this statistical exercise is equivocal, however.

Suppose we find that in a certain area, A, indictable convictions represent a large proportion of all convictions relative to other areas. Does this mean that in area A the courts are most likely to convict persons who are charged with indictable offences than in other areas or does it mean that more persons are charged with indictable offences in area A than in other areas? This question could be answered only if we knew the number of persons charged with offences in each area. Here again it is

necessary to consider the number of convictions in relation to the number of persons charged in order that meaningful inferences may be drawn regarding court function.

Acquittals

The Matthews Report also examined the percentage of charges that result in acquittals. An acquittal results when the court cannot conclusively establish the guilt of the accused. The determination of guilt in a criminal case is a function of the following factors:

a) the efficiency of the police in the apprehension of offenders and in the collection of evidence,
b) the willingness of citizens to press charges,
c) the willingness of witnesses to testify,
d) the skill of both defence and prosecution lawyers involved in the case with regards to the collection of admisable evidence and the presentation of the case to the presiding magistrate, judge or jury,
e) the philosophy of the presiding magistrate, judge, or jury.

The average percentage of charges that resulted in acquittals from 1962 to 1968 ranges from 2.46 percent in Newfoundland to 11.76 percent in Ontario. This disparity seems most likely to be due to the varying efficiency of

the police forces across Canada, the varying philosophies displayed by the magistrate, judge, or jury, the willingness of citizens to press charges and/or the willingness of witnesses to testify since the effects of the skill of the defence and prosecution lawyers would most likely cancel out. Thus, the examination of the percentage of charges which are acquitted does not allow unequivocal inferences to be drawn regarding the courts.

Sentencing

After the guilt of an accused has been determined the trial judge must impose a sentence. The following passage suggests the factors that the trial judge must consider.

> "...In determining what is an appropriate sentence for a crime, the trial judge must consider the gravity of the offence, the character of the act itself and the penalties which the Criminal Code imposes. The effect of the punishment as a deterrent to the prisoner and others, and to what extent it will be effective, must also be considered. In addition, reformation of the offender as far as it may be practical under the circumstances must be taken into account. Finally, the trial judge should give serious consideration to any extenuating circumstances which may appear from the evidence.
>
> Retribution or vengance is generally no longer recognized as a factor in determining punishment, although its influence may linger where sentences are imposed for vicious crimes. Lastly, where it is evident that neither deterrance nor reformation will have any significant effect on the offender, the court will consider segregating him for a lengthy period in order that his criminal propensities may be cured." (Salhany, 1968;156)

This passage, of course, describes an ideal situation. It is not reasonable to assume that every judge takes all of the above-mentioned factors into consideration when imposing sentence.

An examination of the percentage of persons charged who receive a suspended sentence, a fine, or who are incarcerated is an appropriate measure of the propensity of the court to impose these various sentences. However, it is impossible to draw meaningful inferences using these statistics without knowing the circumstances surrounding the imposition of these various sentences (i.e., the gravity of the offences, the character of the act itself, penalties which the Criminal Code imposes, etc.)

The Correctional Institutions

The data analyzed in the Matthews Report under the heading "Correctional Statistics" were taken from D.B.S. publications 85-201 - Statistics of Criminal and Other Offences and 85-207 - Correctional Institution Statistics. As we have seen the data for D.B.S. publication 85-201 are reported by Registrars of the Assizes and General Sessions of the Peace, Clerks of County and District Courts, officials of Magistrate's and Family Courts, and Justices of the Peace. "The data in this report (85-207) are reported by administrators of provincial gaols,

reformatories and training schools and by the Commissioner of Penitentiaries." (Dominion Bureau of Statistics, 85-207, 1969:Introduction)

In this section of the report Matthews examined;

a) the percentage change in institutional populations from 1960 to 1970,

b) the number and rate of incarcerations,

c) the incarceration to conviction ratio.

It has been found that the population of adult provincial institutions increased in five provinces and the territories and decreased in five provinces. These changes in institutional populations could be due to any combination of the following factors;

a) a change in the number of persons committing offences,

b) a change in police efficiency,

c) a change in the institutional facilities available,

d) a change in law enforcement practices,

e) a change in sentencing practices.

In order to determine the exact effects of these factors the study design must be such that the separate contribution of each factor can be assessed.

The incarceration rate (the number of persons incarcerated per 1,000 population between the ages 15 and 69), like the conviction rate, is meaningless for anything other than descriptive purposes because the denominator is ill-chosen. While the number of persons incarcerated per population

may be interesting, this statistic allows no meaningful inferences to be drawn from it. The number of persons incarcerated must be considered in relation to the number of persons convicted.

The incarceration to conviction ratio, however, is a meaningful statistic since it takes into account the fact that incarceration is a function of conviction. This statistic provides an appropriate measure of the predisposition of the courts to use incarceration as a sentencing alternative.

THE CONCEPT OF JUSTICE

The Matthews Report states that there is "a concept of justice in Alberta that differs significantly from that of Canada as a whole." (65) The report, however, does not discuss how these concepts of justice differ. It appears that Matthews assumes that the data directly reflect differences in the idea of justice. On the contrary, as Hirschi and Selvin note, "Unless it was predicted, hypothesized, or otherwise expected, no relation, large or small, significant or nonsignificant, ever speaks for itself. The task of the analyst is to make sense out of his data." (1967:110)

As we have seen in the previous section, the data certainly do not speak for themselves. In fact, the data are such that several conclusions may be equally plausible. Furthermore,

there is certainly no a priori reason to hypothesize that there is in Alberta concept of justice which differs from that of the rest of the country. The allegation of a deviant Alberta "concept of justice" is not supported by the data upon which it is allegedly based.

Although the Matthews report does not explicitly state how the Albertan concept of justice differs from a Canadian concept, the substance of the allegation is apparent in certain conclusions of the Report. Consider, for example, the following statements:

a) "The national trend is to charge different persons with the same offence while the Albertan trend is to charge the same person with different offences." (35)

b) "The pattern suggests that a person who is charged with an offence is more likely to be found guilty in Alberta than Canada as a whole." (45)

c) "Alberta is only about two-thirds as likely to use the suspended sentence as a sanction as is Canada." (45)

d) "Alberta places more emphasis upon incarceration than Canada." (45)

e) "...It may be concluded that Alberta differs significantly (does not belong with the rest of Canada) in the extent to which incarceration is used as a sanction for summary convictions." (63)

The picture that is painted is one of a legal-justice system in Alberta that is certainly more punitive than the rest of Canada and perhaps even a little backward.

The newspaper accounts of the Matthews Report draw much stronger conclusions about how the concept of justice differs in Alberta. The April 7, 1972[b] edition of The Edmonton Journal has this to say -

> "Alberta's system of justice makes a mockery of the Alberta Bill of Rights", says University sociologist Dr. Victor Matthews.
>
> The bill of rights aims to protect the individual from the state, but Dr. Matthews said his statistical picture of the judicial system here boils down to a system of justice that is not just.
>
> He said that the punitive way in which Alberta's judicial system operates is so different from the way in which other provincial judicial systems operate that "statistically, Alberta doesn't even belong to Canada."

> "The provincial legal-justice system appears to be the most respressive and punitive in North America," said Dr. Matthews.
>
> He said the findings also suggest that Alberta's is the most oppressive judicial system in the Western World" (Harvey, 1972[a])

It must be stressed once again that the Matthews Report contains no evidence that the concept of justice in Alberta differs significantly from that of Canada as a whole. The statements concerning high order abstractions such as "justice", "punitiveness", and "repressiveness" have no direct links to the data presented. Such characterizations remain speculation.

SUMMARY AND CONCLUSIONS

Although the present research has indicated various ways in which the data analysis could be improved in the Matthews Report, this is not the major fault of the report. The major fault lies rather in its ambitions. Had the objectives of the report been to describe Alberta within the Canadian context rather than to assess the meaning of the disparities found between Alberta and Canada, the report would have been better able to achieve its objectives. Descriptive studies can accommodate a flexible study design and wide range of variables. However, studies from which meaningful inferences are to be drawn require a carefully planned study design and a relatively small number of variables.

The Matthews Report has attempted to ascertain the meaning of the disparities found between Alberta and Canada as a whole using a descriptive design. Thus, while the study purports to analyze the data "to reveal specific features and problems within the legal-justice system of Alberta and their relationship to Canada as a whole," (Matthews, 1972:1) it is unable to do so because of the limitations of the data.

Three separate tasks are indicated in Matthews' statement of objectives. The first is to examine the specific features of the legal-justice system; the second is to

reveal "problems" within the legal-justice system. The third task is to examine the relationship of the specific features and problems of the legal-justice system in Alberta to Canada as a whole.

In an attempt to reveal the specific features of the legal-justice system, the Matthews Report computes rates, percentages, percentage changes, and ratios from the raw data for Alberta and Canada as a whole, and sometimes for the remaining provinces. Then, these statistics are compared. A statement of the position of Alberta in relation to the rest of Canada often serves as a conclusion for the data analysis.

This analysis fails to achieve its objectives for several reasons. A study of this nature requires that the statistics used be designed to measure validly the features of the legal-justice system. Thus, the effects of intervening variables must be eliminated. This can be achieved either through the choice of a valid measure (i.e., one which measures what it is intended to measure) or by a study design which includes measures of possible intervening variables.

As we have seen in the preceding section, the indicators in the Matthews Report are <u>not</u> valid measures. Not only do they <u>not</u> measure what they are intended to measure (this is evidenced by the fact that several different inferences may be drawn from the same data), but it is often not clear to the reader exactly what these indicators are intended to measure in the first place. Furthermore, the study

design does not include measures of intervening variables. Thus, the inferences one may draw are necessarily speculative.

A second problem relates to the inappropriate choice of a denominator for certain rates. For example, rates were calculated for the number of offences known to the police, the number of persons charged with offences, the number of persons convicted, and the number of persons incarcerated. Each of these rates uses as a denominator - 1,000 population between the ages of 15 and 69. In other words, each rate expresses a particular event as a function of its occurrence per 1,000 population between the ages of 15 and 69. This denominator is appropriate for the number of offences known to the police and the number of persons charged with an offence as each of these events is a function of the size of the general population. The number of convictions, however, depends upon the number of persons charged, rather than upon the general population. Although it may be of interest to know the number of persons convicted and incarcerated per population, these rates tell us nothing about the legal-justice system.

A final problem in this regard is that the Matthews Report often assumes that the disparity found between Alberta and Canada speaks for itself. However, since we have no reason to believe, and it was not hypothesized, that Alberta's legal-justice system differs from that of Canada, the disparities in and of themselves mean nothing. Thus, the task of determining the meaning of the data is left undone.

The task of revealing 'problems' within the legal-justice system often requires expertise which does not fall within the realm of the social scientist. In order to determine what is or what is not a problem within the legal-justice system, one must know what "ought to be." Problems that are encountered within the legal-justice system can be broken down into two types. The first type would be those problems which relate to administrative tasks. The second type of problem involves the issue of justice. The role of the social scientist with regards to questions concerning law and legal systems is one of a social accountant. His expertise, if any, is in counting and relating social behaviors and social conditions. Problems of an administrative nature often fall within the realm of sociological inquiry since it is relatively easy to determine in these instances what "ought to be". However, the question of what "ought to be" in order that justice be attained is not so easily answered. "One man's justice is usually another man's injustice, and few sociologists are prepared to claim that science can assess such conflicting claims." (Schur, 1968:57) This does not mean that justice is not or should not be examined by social scientists, but rather that the approach must be descriptive rather than normative. Stone states this position thus:

> "The study of law in its social relations is concerned with the actual effects in the legal order of the fact that such ideals (justice) are held, and the effects of the legal order on such ideals as held. It is not concerned in principle, as is the study of theories of justice, with the question whether the ideals are valid, invalid, demonstrable or undemonstrable, useful or useless or indeterminate. The former is a descriptive activity; the latter is a "normative" or "evaluative" one. The one tries to describe what "is" or "goes on", the other what "ought to be" or "ought to go on". (1966:5)

Alberta in the Canadian Context

Our analysis indicated that Alberta has the lowest average ratio of the number of persons charged with an offence to the number of offences cleared by charge for the criminal code, the provincial statutes and the municipal by-laws; and that in all cases this ratio is less than one. Thus, we may conclude that on the average in Alberta the number of offences cleared by charge exceeds the number of persons charged with an offence. What this conclusion means in terms of the legal-justice system is not apparent from the present analysis. This could be determined only by a thorough examination of individual case records.

Albertan courts are less likely on the average to use the suspended sentence without probation for summary offences than any other area in Canada. It is impossible to draw meaningful inferences from this fact without knowing the circumstances surrounding the imposition of

the various sentences. (E.g., the gravity of the offence, the character of the act itself, the purpose for the imposition of the sentence, etc.) Again, an examination of individual court records would be a valuable means of assessing sentencing practices.

We find that only the Yukon and Northwest Territories have a rate of indictable convictions per 1,000 population higher than that in Alberta. This conviction rate in and of itself, however, tells us nothing about the operation of the courts since the number of convictions which occur in any given area is a function, first, of the number of persons charged with offences in that area, and second, of the operation of the courts. If the courts in Alberta were more likely to convict persons accused of an indictable offence than any other province, we would expect to find that the percentage of charges resulting in acquittals would be lower in Alberta than in any other province. Since this is not the case, we may conclude that the number of persons charged with indictable offences in Alberta is at least partly responsible for the large conviction rate.

The increase in both the number and rate of persons detained in adult provincial institutions is greater than that of any other province and lower than that of the Yukon and Northwest Territories. Whether this is due to an increase in the number of persons committing crimes, increased police efficiency, a change in law enforcement practices,

increased prison facilities, or increased tendency on the part of the courts to impose a prison sentence cannot be determined from this analysis. In order to determine which of these factors are related to the increase, a study design which measures each of these factors is required.

The rate of persons incarcerated per 1,000 population is greater in Alberta than in any other province. The Yukon and Northwest Territories have an incarceration rate higher than that of Alberta. The incarceration rate is a function, first, of the number of persons convicted, and second, of the tendency of the courts to use incarceration as a sentencing alternative. Thus, if we want to assess the tendency of the courts to use incarceration as a sentencing alternative, the number of persons incarcerated must be considered in relation to the number of persons convicted of offences. Using a ratio of the number of persons incarcerated to the number of persons convicted for summary offences we find that Alberta ranks third. The Territories and Prince Edward Island have incarceration to conviction ratios higher than that of Alberta.

Our analysis has shown that the disparity between Alberta and Canada is not large or widespread. Furthermore, this <u>disparity does not increase</u> as one moves through the legal-justice system. Since the methodology of the research facilitates only description, it is not possible to determine whether or not any particular branch of the

legal-justice system is responsible for such disparities as are found between Alberta and the rest of Canada. Neither is it possible to determine if these disparities are unilateral since unequivocal meanings cannot be assigned to the conclusions.

CHAPTER FIVE

A QUESTION OF INFERENCE

REALITY, DATA, AND INDICATORS

Under a section describing its purpose the Matthews Report states, "This report is concerned with the nature of legal-justice statistics in Alberta. Specifically, this study: a) Reviews the kinds and range of data available concerning the legal-justice system of Alberta; b) analyzes this data to reveal specific features and problems within the legal-justice system of Alberta, and their relationship to Canada as a whole;...." (1). This statement indicates that the reality Matthews has chosen for analysis is the police, the courts, and the correctional institutions in Alberta; and that a review of the kinds and range of data available would provide a range of indicators with which to measure the special features of the legal-justice system.

Since the available data are based upon the population which comes into contact with the legal-justice system, the effects of this population upon the legal-justice must be considered in the analysis of the legal-justice system. The Matthews Report, however, is based on the assumption

that the indicators chosen refer to the operation of the legal-justice system and the effects of the legal-justice system upon this population. What the analysis fails to take into consideration is the fact that the relationship between the legal-justice system and the population with which it must deal is an interactional process. Thus, while it is true that the legal-justice system affects the population, it is also true that the population affects the legal-justice system and this interactional process must be taken into consideration when defining the indicators.

> "It is thus possible to use one measure as an indicator of a variety of concepts and to use several measures as indicators of the same concept. This one-to-many, many-to-one feature of indicator-concept relations lies at the root of many controversies, occupies much of the space in methodological discussions, is the downfall of those who think that facts speak for themselves, and is a source of opportunity par excellence for the ingenious investigator." (Hirschi and Selvin, emphasis added, 1967:193)

Rates

Four types of indicators are used in the Matthews Report - rates, ratios, percentages, and percentage changes. All of the rates express an event as a probability of its occurrence per 1,000 population between the ages of 15 and 69 (e.g., offence rate, conviction rate, incarceration rate, etc.) Although the use of the population between the ages of 15 and 69 is a convenient denominator, it does not

control for the effects of population factors and, in addition, our analysis has shown that the denominator is inappropriate in some cases.

There are certain population factors that have been examined in various studies and these factors have been demonstrated to be consistently related to the incidence of crime. These factors include the density and size of the population, population mobility, population stability within areas, composition of the population including age, sex, and other social characteristics, and varying economic and social conditions. One way of dealing with these factors in a study of the legal-justice system would be to calculate the rates used in the analysis as a function of these different factors where appropriate indicators of these factors are available. Thus, for example, one could calculate the number of women who were charged with offences per population of women between the ages of 18 and 24. Using this method, a comparison of Alberta to other areas of Canada becomes more meaningful.

In addition to being less meaningful, the choice of the population between the ages of 15 and 69 as a denominator is, in some cases, inappropriate. For example, the Matthews Report calculates a rate of convictions per population. However, since the study is focused on the legal-justice system as opposed to the population, the number of convictions as a function of the number of persons charged would have been more appropriate. This indicator

would measure the propensity of the courts to convict persons charged with an offence.

We have seen, then, that the rates used in the Matthews Report as indicators do not have pragmatic validity[1] as measures of the legal-justice system. This is due to the failure of the study to consider the effects of the population with which the judicial system must deal.

Ratios

The Matthews Report calculates two ratios in the process of data analysis. The first is the ratio of the number of persons charged with an offence to the number of offences cleared by charge. The meaning of this first ratio is not only intuitively indiscernible, but the Matthews Report gives no indication to the reader as to its proposed meaning or significance.

A second ratio used in the Matthews Report is the incarceration to conviction ratio. This ratio clearly measures the propensity of the courts to use incarceration as a sentencing alternative. However, care must be exercised when interpreting this ratio. The data is broken down

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1. Indicators and validity are discussed in Hirschi and Selvin: Delinquency Research, An Appraisal of Analytic Methods, 1967, pp. 193-194. See also Blalock, Social Statistics, 1960, pp. 11-15.

into summary convictions and indictable convictions. Each catagory contains a wide range of illegal behaviors, and individual differences in the commission of these acts and the composition of each category in terms of these factors in part determines the sentences imposed within each category. We cannot assume then that because the courts differ on this indicator that they would differ on other measures designed to determine the propensity of the courts to use incarceration as a sentencing alternative. Thus, we have seen that although the measure has logical validity, it does not necessarily have pragmatic validity.

Percentage Change

The Matthews Report calculates the percentage change in the offence rate, the rate of persons charged, and in the number of persons incarcerated in adult provincial institutions. Our analysis has shown that the offence rate and the rate of persons charged are not unequivocal indicators of criminal and judicial activity. Nor does the Matthews Report define what they are intended to measure.

The percentage change in the number of persons incarcerated in adult provincial institutions is calculated in the Matthews Report. Any increase or decrease in the number of persons incarcerated may be due to an increase or decrease in the population. In order to control for

population changes the percentage change in the rate of incarceration per population of appropriate age should be calculated.

Indicators and Conclusions

In some cases it is unclear to the reader what indicator was used in order to arrive at a conclusion. For example, the Matthews Report states, "Examination of these tables suggests that Alberta has a lower acquittal rate than Canada." (emphasis added, 45) The tables to which it refers are composed solely of numbers and percentages. Where, then, does the rate come from? In addition, the report states "In every case Alberta placed more emphasis upon incarceration. However, Alberta is only about two-thirds as likely to use the suspended sentence as a sanction as is Canada." (emphasis added, p.45) No indication is given in the report as to how 'placing emphasis' and 'likelihood' are measured nor does it show how the figure two-thirds is arrived at.

All of the difficulties discussed regarding the use of indicators in the Matthews Report are due to the failure to consider the effects of population characteristics on the legal-justice system and/or the failure to define the indicators so as to clarify what they are intended to measure.

DATA MANIPULATION AND REPORTING OF CONCLUSIONS[2]

As we have seen, the Matthews Report in some instances compares Albertan data to the aggregate Canadian data. In other instances, the indicators are examined for one year only(1967), and are compared to all other provinces but not to the Yukon and Northwest Territories. Each of these data manipulations places restrictions upon the conclusions which may legitimately be drawn from the data.

Reasons why these data manipulations are impractical and unnecessarily restrictive in terms of the purpose of the research as well as suggestions for more sensible techniques for data analysis have been discussed in detail in previous chapters. Our concern with these data manipulations at this point is in the reporting of conclusions which result when these techniques are used.

The most important consideration in the reporting of conclusions pertaining to social research is the context within which these conclusions may be considered to be true. Without qualification as to the limits within which the conclusions may be said to have "truth" value, the conclusions often become misleading. For example, the Matthews Report finds that in 1967 Alberta has the highest incarceration to conviction ratio for summary offences

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2. The term conclusion as used in this sub-section refers to a summary of statistical regularities. It does not include inferences which may be drawn from the data.

among the provinces. The phrases "in 1967" and "among the provinces" are limites which qualify the conclusion. This conclusion stated without these limits would imply that Alberta always has the highest incarceration to conviction ratio in all of Canada. Our analysis has shown, however, that on the average from 1962 to 1968 Alberta ranks third[3] in Canada with regards to the incarceration to conviction ratio for summary offences, falling behind the Yukon and Northwest Territories, and Prince Edward Island.

The reporting of the conclusions may be viewed as the first level of abstraction in the conduct of social research. It is at this point that the data analysis is summarized to include a few concise statements. If, at this first level of abstraction, the conclusions are reported without the inclusion of the limits within which the statements may be said to have "truth" value, the conclusions themselves are misleading. This has serious implications for higher levels of abstraction.

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3. The fact that the Yukon and Northwest Territories are usually reported in the D.B.S. catalogues as one unit presents problems in terms of ranking Canadian jurisdictions with regard to certain statistics. It was decided that for present purposes the Yukon and Northwest Territories would be counted as one unit in the ranking areas. It should be remembered, however, that in terms of the incarceration to conviction ratio, Alberta could legitimately be ranked fourth in Canada falling behind both of the Territories and Prince Edward Island.

INFERENCE-DRAWING

An inference for purposes of the present discussion may be described as that operation which leads from data (reality) to explanation or meaning (theory). In Chapter One of our study the following were suggested as criteria for proper inference drawing:

a) an inference should be based upon empirical data,

b) an inference should be reducible to empirical data,

c) an inference should be based upon the total evidence available,

d) an inductive inference expresses the probability of an event as some frequency of its occurrence among other events. The probability of a specific event occurring will vary then with the denominator chosen. Thus the denominator chosen should be relevant and should be stated in conjunction with the inference. Sociologists usually, but not always, justify their choice of a denominator by its contribution to an improvement in forecast accuracy. Thus Nettler (1974:59) argues that "The rationale for the computation of rates is a predictive one.....To increase the accuracy of forecasts, a rate should be 'refined' so that it includes in its denominator all those persons and only those persons who are at risk

of whatever kind of event is being tallied in the numerator." (Emphasis in original)

An examination of these criteria indicates that the process of inference-drawing encompasses all other steps in the research process. In order that an inference be based upon empirical data, the indicators used in the research must adequately represent the data chosen for study. If an inference is to be reducible to empirical data, the limits which qualify the facts must be considered. An inference which is based upon the total evidence available requires a study design which takes into account those variables which might conceivably affect the social behaviors and social conditions under examination. In order that the denominator of an inference be relevant the data manipulations should be appropriate to the purpose of the study.

We have seen that the indicators used in the Matthews Report are not defined in terms of their relationship (real or intended) to reality and their meaning is not intuitively unequivocal. The data manipulations are restrictive and, in addition, the limits which qualify the conclusions are missing in some cases, in other cases, are inappropriate to the purposes of the study. In addition, we have seen that the study design fails to account for the effects of population composition on the legal-justice system. Thus we may conclude that since the

Matthews Report is not designed to accommodate the critera for proper inference drawing, inferences about the comparative functioning of criminal-judicial systems should not be drawn from these data.

Theory in Social Science

Not all studies are, or should be designed with the intention of drawing inferences. This is especially true when the area of study is new. What is required in a new field of study is that social behaviors and social conditions be identified and classified. "It is proposed here that, if there were to be a social science, the inquiry would have to proceed from taxonomy to the counting of statistical regularities. If the regularities are themselves to be explained by being embedded in a hierarchy of generalizations, then such an additional story deserves the title, "scientific theory", when it increases the power to predict other happenings. Lacking such theory, the nearest approximation to scientific behavior for the student of the social scene involves the laconic outlook of the actuary..." (Nettler, 1970:130, emphasis in the original) It is suggested that the study of the legal-justice systems in Canada should be concerned with taxonomies and the counting of statistical regularities at this point in time.

The Matthews Report was concerned with the counting of statistical regularities. For the most part, in the body of the text, the statistical regularities alone are reported and inferences are not drawn from the data. The notable exception is, of course, the inference that in Alberta there exists a concept of justice that differs significantly from the concept of justice in Canada as a whole. This conclusion was discussed in detail in the previous chapter. Unfortunately however, the mass media was not reluctant to draw several inferences from the Report. These will be discussed in the following section.

ON THE USES OF SOCIAL RESEARCH

Although there have been many suggestions as to the uses of social research, our analysis will be concerned only with those issues which arise in relation to the Matthews Report. The report was widely publicized at the time of its release both in the newspapers and on television. Thus the public was made aware of the supposed findings of the report and as a result governmental agencies were pressed to do something about these findings.

The articles and editorials published in the Edmonton Journal regarding the Matthews Report will be used in this analysis,

a) as illustrative of mass media reporting of the research,

b) as illustrative of public opinion regarding the report and its implications.

This section of the analysis will discuss the relationship of social research, the mass media, public opinion and governmental agencies. Figure One shows the possible interaction patterns of these four factors.

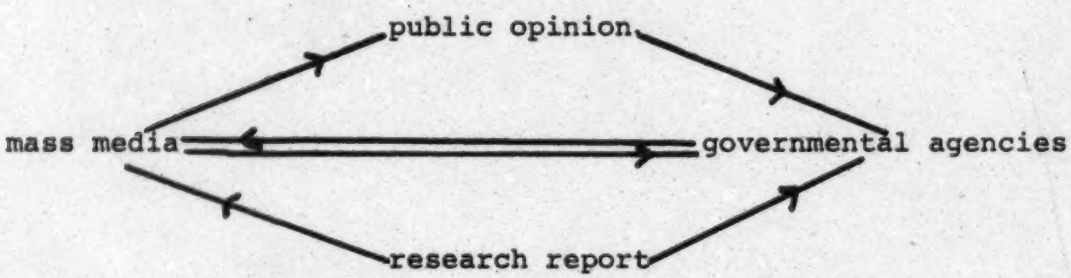

Figure 1: The possible interaction patterns of social research, governmental agencies, mass media, and public opinion.

The Mass Media

If the researcher wishes to report his research findings to the mass media, it is his responsibility to see that these findings are presented in such a way that a minimum of misrepresentation is possible. Research findings are very often reported in technical terms. Since most of the audience to whom the mass media reports is not familiar with the specialists' vocabulary, the findings must be translated into layman's language. This translation should be done by the researcher rather than

by the media reporter in order to avoid misunderstandings. In addition, this translation should be simplified as much as possible so that the reporter will not be required to undertake this task himself.

Perhaps the most important duty of the researcher in reporting to the mass media is to stress the limits within which the conclusions and inferences may be said to be true. This is even more important at this time than it is in the reporting of conclusions in the research project because although the reader of the research report will most likely notice the missing limits and make allowances the audience of the mass media will not be aware of the missing qualifications. In addition to being misleading in themselves, findings reported without a statement of their limitations in time, place, and data-adequacy allow the media reporter to draw unjustified inferences from these findings.

In his report to the mass media, the researcher should also carefully specify which statements are facts or statistical regularities and which statements are inferences drawn from the data. In addition, inferences which arise in connection with the research, but are not reported in the text of the research itself should <u>not</u> be presented to the media. These practises will help to obviate possible misunderstandings.

In order to capture larger audiences the mass media

often sensationalize the material with which they work. Since social research often deals with subject matter which in everyday life involves moral concerns, it is particularly susceptible to sensationalism in the media. Thus, although the researcher is well advised to present his findings in a simplified layman's language, he must be careful to keep the report at a level well removed from a discussion of moral issues. Social research should strive to maintain a factual stance when it is on display for the public. It should avoid becoming a controversial issue if at all possible.

> "Mass communication is a special kind of communication. Wright (1959:15-16) points out three distinct conditions of mass communication which raise problems. First, it is directed toward a relatively large, heterogeneous, and annymous audience. The communicator does not come into face-to-fact contact with his audience. The message is directed to persons in many occupational, age, sex, residential, and other categories. Therefore, the message is impersonal and directed at persons unknown to the communicator. Second, mass communications are rapid and transient, received and consumed by large numbers of persons almost instantaneously and simultaneously. Because there frequently is not time for a leisurely study of the message and because a heterogeneity of interests exists among the mass audience, the message must be concise, simple, and sometimes, sensational in content. Third, the mass communicator is not a single person. "He" is a complex organization made up of many specialists who take on a faceless identity within the bureaucratic structures of newspapers, film studios and similar establishments. (Johnson, 1968:110-111)

The most important element in the interaction of

social research and the mass media is effective communication. The research report does not speak for itself. The researcher must inform the mass media in concise, simple terms what the research says.

A content analysis of an article published in The Edmonton Journal entitled "Study Says Alberta Justice Most Repressive, Punitive" (Harvey: 1972[9]) provides an illustration of the difficulties encountered in the interaction of social research and the mass media. I have selected this article as illustrative because it deals specifically with the findings of the Report. There are at least 10 misunderstandings contained in this journalistic account.

(1) The Journal said, for example, "Dr. Victor Matthews' report for the Human Resources Council shows that every year hundreds of Albertans are sent to jail for offences which in other provinces would bring acquittal, suspended sentences or probation."

As has been indicated in the body of this study, the Matthews Report examines incarceration statistics for only one year, 1967. The analysis did not include a province by province comparison of the sentences imposed for similar offences. The newspaper account, therefore, gives readers an exaggerated picture of criminal justice in Alberta.

(2) This article continues, "The University of Alberta sociologist's findings show an Albertan is not

only more likely to be charged with an indictable offence, but also is more likely to be sent to jail."

This statement does not specify with what Alberta is being compared. It implies, however, that the comparison is province by province as in the previous statement. In the Matthews Report, Alberta and Canada as a whole are compared with regards to the rate of persons charged and the conviction rate. Alberta is compared, however, with all other provinces with regard to the rate of persons incarcerated and the incarceration-to-conviction ratio.

The incarceration to conviction ratio measures the propensity of the courts to use incarceration as a sentencing alternative. The report, however, contains no adequate measure of the likelihood of persons to be charged or convicted. Furthermore, our analysis has shown that, on the average, Alberta does not rank extremely high among the provinces and territories for the rate of persons charged, the conviction rate, or the incarceration rate for indictable offences. (Rates are based on the population between the ages of 15 and 69.)

(3) The article went on to say, "The provincial legal-justice system appears to be the most repressive and punitive in North America, said Dr. Matthews. He said the findings also suggest that Alberta's is the most oppressive judicial system in the Western World."

The Matthews Report, however, does not include measures of "repressiveness", "punitiveness", or "oppressiveness", and therefore any statement using these terms

is merely speculative. Speculative statements should not be included in a report of research findings.

Furthermore, (for the most part), Alberta is compared to Canada as a whole. Alberta is compared to the other provinces in Canada on only three measures in the Matthews Report. Nowhere in the Report, however, are the statistics regarding Alberta's legal-justice system compared with statistics concerning legal-justice systems in other parts of North America or the Western World.

(4) The Journal reported that, "His report...shows that the per capita rate of persons sent to jail in Alberta is eight times the national average."

The Report shows that the increase in the number (not per capita rate) of persons incarcerated in adult provincial institutions between 1960 and 1970 is slightly more than eight times greater in Alberta than it is in Canada as a whole. Thus, the article mistook increases in numbers to mean increases in per capita rates. This mistake occurs because it is forgotten that an increase in the number of persons incarcerated may be due to an increase in the population rather than or in addition to an increase in the relative number of persons incarcerated. In fact, our analysis has shown that, when allowances are made for population increases and decreases, Alberta's justice system does not incarcerate offenders at a significantly higher rate than that of other provinces.

The increase in the number of persons incarcerated in Canada between 1960 and 1970 is reported in the Matthews' study as a percentage increase. This figure is an aggregate figure not a "national average".

(5) The article adds that "The rate of incarceration in Alberta is also increasing nine times as fast as in the rest of Canada, and three times as fast as our population, while the trend in the rest of Canada is towards fewer jail sentences."

This statement is also a misinterpretation of the Matthews' finding that the increase in the number of persons institutionalized in adult provincial institutions in Alberta between 1960 and 1970 is slightly more than eight times (not nine times) as large as the increase in Canada as a whole. The Matthews Report did not calculate increases in the rate of incarceration. In addition, our analysis has shown that Alberta is not the only area in Canada in which an increase in the number of persons institutionalized was found. Four provinces and the Yukon and Northwest Territories also showed an increase in the number of persons incarcerated from 1960 to 1970.

(6) Dr. Matthews is quoted in the article as saying that, ""...Alberta has the highest incarceration-conviction rate in Canada.""

While it is true that in 1967, Alberta had the highest incarceration to conviction ratio among the provinces,

this fact does not hold true when other years are examined. Furthermore, our analysis has shown that in 1967 the Yukon and the Northwest Territories had incarceration to conviction ratios higher than those of Alberta.

(7) The article continues, "He said it was unlikely that an increase in criminal activities in the Province was the cause of differences between Alberta and Canada."

This statement is necessarily speculation, since the Matthews study does not examine criminal activities. Speculative statements should not be reported in conjunction with research findings.

(8) The article goes on to say, "But even for minor offences other than traffic infractions, a person arrested in Alberta is twice as likely to be convicted as in other provinces."

This statement refers to the finding in the Matthews Report that "Alberta's average percentage of summary convictions (without traffic) averages more than twice that of Canada." (p.44) This percentage, however, does not measure the likelihood of conviction. It measures only the composition of all convictions, (i.e., the percentage that indictable, summary traffic, and summary other than traffic convictions represent of the total number of convictions). The percentage does not measure the likelihood of conviction because the rate of conviction to arrests is not computed. Furthermore, Alberta is compared, in this instance, to the

aggregate figure for Canada as a whole and not to the other provinces and territories.

(9) The article also says, "The per capita rate (of summary convictions) in Alberta is 70% higher than the national average."

The Matthews Report indicates that Alberta's conviction rate is 70% higher than the aggregate conviction rate for Canada as a whole. The aggregate conviction rate is not a national average.

(10) Finally, the article, quoting the Report, states that, "'The percentage of indictable convictions for Alberta averages more than twice that for Canada.' (The percentage is a comparison of the number of charges with the number of convictions)."

This percentage measures only the composition of the total number of convictions. (i.e., the percentage that indictable, summary traffic, and summary other than traffic convictions represent of the total number of convictions.) It is certainly not a comparison of the number of charges with the number of convictions. Here, too, the Canadian figure is an aggregate figure and not a "national average".

This analysis reveals that the media personnel may not have the expertise necessary to interpret social research reports accurately. Our suggestion that the interpretation of research findings be done by the researcher rather than by the journalist bears repetition.

In summary, the mass media treatment of the Matthews Report is characterized by:

a) a misunderstanding of the meaning of the indicators used in the study,

b) an ommission of those limitations that, we have noted, qualify the data,

c) a confused interpretation of statistical techniques, and

d) unjustified inferences.

Public Opinion

The Matthews Report was presented to the media audience under such sensational headings as "Study Says Alberta Justice Most Repressive, Punitive"; "Province's Justice System Not Just, Study Maintains", and "Study Says Magistrates Behind the Times." These inferences, although not justified by the data analysis of the Report, were presented to the public as the gravamen of the study. Thus, the Matthews Report findings were extended beyond their limited meaning to raise the moral issues of justice and freedom. The extent to which the mundane statistical findings became lost in a web of lofty ideals is evidenced in the following passage taken from an editorial in the Edmonton Journal. (1972[e]).

> "It is not just the universal franchise or democratic elections that make us free. In great part our freedom is guaranteed and given value by the institutions and processes of law and justice. Should these prove ineffective or oppressive, life is devalued."

Such journalistic interpretation used the Matthews Report to "charge" the government with supporting an unjust judicial system. The government, in turn, was expected to do something about these charges. Many of the appeals addressed to the government were emotional appeals based on the sensational inferences presented in the media rather than reasoned appeals based on the actual findings of the report.

> "The worst reaction to Dr. Victor Matthews report criticizing law and justice in Alberta would be to try to shrug it off or ignore it," the Journal editorialized (1972e).
>
> "Even if only part of his report were to prove accurate, it would still raise questions whose seriousness can scarcely be exaggerated.
>
> Those who truly love justice and revere the rule of law; will not be satisfied unless the doubts raised by the report are examined with the relentless zeal and scrupulous impartiality that are of the essence of our tradition of law and justice. When it is justice itself and the whole system of law that is impugned, no lesser test can suffice."

A parallel reaction was expressed in another comment in the Journal. (Midgley, 1972)

> "I am not saying Alberta's system of law and justice is necessarily as seriously defective as Dr. Matthews says the statistics suggest...But perhaps things look less reassuring when viewed through the eyes of the underpriveleged and the disadvantaged, who have the most contact with the system.
>
> What I am saying is that, if even a small part of what Dr. Matthews alleges is accurate, there are serious imperfections in the very institutions that are of the most basic importance to the quality of our society."

These interpretations were not the only attitude toward the Matthews Report, and skepticism of its findings was expressed in some quarters. Some readers felt that the gravity of the allegations about the Alberta judicial system called for a re-examination of the Report's findings rather than for immediate policy changes. The government, was, however, expected to take immediate action because of the seriousness of the charges and was criticized in the mass media for not doing so. For example:

> "The Chairman of the Edmonton Police Commission today called for the establishment of a commission to study the administration of justice in Alberta.
> Al Edwards said that although he did have criticisms of a report by Dr. Victor Matthews on the provincial legal-justice system, the statistics in the report 'could certainly justify' the need for a study of the administration of justice." (Edmonton Journal, 1972[e])

> "Senior Provincial Judge Carl Rolf retaliated with skepticism and disapproval of Dr. Matthews' conclusions.
> "The conclusions are his own conclusions and they will have to bear examination," said Judge Rolf of Dr. Matthews' assertions about Alberta's judiciary system." (Edmonton Journal, 1972[a])

> "A commission or tribunal not identified with the very system that is the subject of inquiry is what is required. And only the provincial legislature, as the representative of the people, can properly appoint such a commission and then evaluate its findings." (Edmonton Journa, 1972[e])

> "We could fairly have expected the attorney-general by now to have been given a ringing pledge that a high-powered inquiry was being initiated and that the government would swiftly introduce reform where shown to be necessary." (Midgley, Harry; 1972)

Although it may be desirable in a democracy to have an informed public, a misinformed public may be worse than an uninformed public. "Knowing nothing about a subject is frequently healthier than knowing what is not so, and a little learning may be a dangerous thing." (Huff, 1954:43)

Governmental Agencies (Social Policy)

If the findings of social research are publicized in the mass media, and especially if they become contraversial issues, the government is likely to be pressured into taking action by the public and by the media itself. However, the relationship between social research and governmental agencies, if it is to be an efficient working relationship, should be based on direct communication between the social researcher and the governmental agencies involved. That is, the government is responsible for a technical assessment of the research findings based upon the research itself, rather than upon the media reports of what the analysis says and implies. This presents a particularly difficult situation for the government when the findings have been

sensationalized in the media so that what the media interprets the research to mean, and what the research means in actual fact, are separated and involve essentially different issues. As we have seen this is precisely what occurred in conjunction with the Matthews Report. While the public and the media were concentrating on questions of freedom and justice the government was responsible for assessing the meaning and implications of more mundane issues such as offence rates and incarceration to conviction ratios. Thus, although the researcher may feel called upon to inform the public of his findings such that the government will be prodded into action, this method has its hazards, as we have seen.

What, then, should the relationship of the social researcher and the policy maker be in order that intelligent decisions be made? The most important element of this relationship is that each party have realistic expectations regarding the role of social science in the formation of social policy. The policy maker must recognize that the expertise of the social scientist does not include answering questions regarding moral issues. Thus, while the researcher may make definite contributions to the effectiveness of a social system in attaining specified goals, he cannot indicate what these goals ought to be. In addition, the policy maker should not assume that, because the social researcher may point out areas of social concern, that this

entails necessarily his knowledge of cures for social ills.

The researcher, for his part, must carefully spell out for the policy maker the basis for and the limitations of his findings. Furthermore, he must recognize that these findings are tentative, and are therefore subject to revision or refutation through subsequent investigation.

Although the formation of social policy is in the hands of government and a concerned citizen, the social researcher may provide useful data and analysis that will facilitate the process of making rational responses to public issues. The nature of the contributions which may reasonably be required of social research is discussed in the following passage:

> "The socioligst need not ignore questions of policy. By bringing to light underlying causes and functions of behavior and social arrangements, by specifying social costs and consequences of competing policies, and by developing a general understanding of how different kinds of legal systems work, the sociologist may be in a good position to provide policymakers with highly relevant information and perspectives." (Schur, 1968:14-15)

> "Social scientists may be employed as cartographers of the social scene to describe in greater scope, as opposed to the finer detail that is the artist's talent, how things are.
>
> On a large scale, and with a broad brush, the professional student of social behavior can portray who is where, doing what, and within limits, with what result.
>
> As part of this expertise, the descriptive scientist can show governments how to improve the records from which these portraits are drawn." (Nettler, 1971:22)

In the final analysis a word of caution regarding the relationship of social science to questions of law and legal order is required.

> "No matter how thorough an explication he (the scientist) can provide of the social consequences of alternative courses of action, an area of value choice always remains. Given such likely consequences, which course do we wish to take? This ineradicability of the policy realm will always place some limitations on efforts to develop, scientifically, a just and effective legal order. (emphasis in original, Schur, 1968:14)

SUMMARY AND CONCLUSIONS

Our analysis has revealed many difficulties in interpreting the Matthews Report. We have seen that the indicators used in the Matthews Report are not defined in terms of their relationship (real or intended) to reality and their meaning is not intuitively unequivocal. The limits which qualify the data are in some cases misleading and, in other cases, inappropriate to the purposes of the study. Furthermore, we have seen that the report fails to account for the effects of population composition on the legal-justice system. I have concluded, therefore, that the Matthews Report was not so designed as to permit inferences about the relative justice of the Albertan criminal-judicial system.

However, inferences, supposedly drawn from the data, were presented in the mass media. These inferences were sensational and unjustified by the data. In addition, the media reports were characterized by a misunderstanding of the meaning of the indicators used in the study, by an omission of the limitations that qualify the data, and by, a confused interpretation of the statistical techniques used in the study.

This sensational and inaccurate report of the findings of the research in the media resulted in a situation whereby in the public eye the Matthews Report was "charging" the government with supporting an unjust judicial system. The government, in turn, was admonished for not taking these charges seriously enough to instigate immediate action.

The result of this situation was that the scientific stance of the research findings became lost in a web of high ideals and moral arguments. Rather than being given credit for reviewing the findings, the government was criticized in the media for not dealing with the charges, which, after all, alleged that Alberta's legal-justice system is backward and repressive.

If social research is to be useful to the government in the formation of policy, this type of public bickering, even if it is totally created by the media, must be avoided. The relationship between researchers and governmental agencies, if it is to be efficient working relationship, should be based on direct communication between the researcher

and the governmental agencies involved. The most important element of this relationship is that each party have realistic expectations regarding the role of social science in the formation of social policy.

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APPENDIX I: SUMMARY OF UCR RULES AND DEFINITIONS[1].

General Rules for Scoring

What to Score

All Criminal Code, Federal and Provincial Statutes and Municipal By-law offences and attempted offences excluding traffic which are reported or become known to the police occuring within their jurisdiction from all sources such as:

(1) offences reported by telephone;

(2) offencés reported by a private citizen directly to a police station;

(3) offences coming to the attention of a policeman on the beat or in a patrol car either from his own observation or as reported to him;

(4) policeman making an arrest during or after the commission of a crime before the complaint has been reported;

(5) private prosecutions of criminal nature handled completely by the courts.

Persons reported missing and located, motor vehicles stolen and recovered and persons drowned (Form A).

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1. Taken from D.B.S. catalogue 85-205, Crime Statistics (Police), Appendix, 1969.

When to Score

Offences are to be reported in the month they become known to the police.

Offences cleared are to be reported in the month they are cleared.

Persons charged are to be reported in the month the person is charged.

How to Score

Classify the score from your own police records.

Do not use court records because you are counting offences reported or known to the police and not court or judicial statistics.

The original offence entered under "offences reported or know to the police" stands, even though the offender is convicted of a lesser offence.

Include attempted offences with offences, except attempted murder which is recorded separately.

A crime in which several offenders are involved should be considered as a single incident.

Offences not directly connected should be counted separately.

Offences against the person are scored differently from offences against property.

Murder, attempted murder, manslaughter, rape, other sexual offences, wounding and assault - and other offences against persons - count one offence for each victim; e.g., where one person murders three persons, count three murders; however, where three persons murder one person, count one murder.

Robbery, breaking and entering, theft and theft of motor vehicle - and other offences against property - do not count the number of victims but the number of distinct or separate operations. A distinct operation means the same time, location and circumstance. Specific instructions for each are as follows:

(a) Robbery. - Count one offence for each distinct operation carried out or attempted: e.g. if three persons in a store are held up and the store is robbed, score a single offence of robbery. If four persons rob one, or one person robs four at the same time and location, only one robbery is scored.

(b) Breaking and entering. - When a building contains several independently occupied residences such as apartment, suites, hotel rooms, or offices, each one entered would be scored.

When a building has one occupant; for example a warehouse, store, shop, etc., and is broken into, score only one offence. Score one offence for any number of box cars broken into when grouped in one location. Grouped in one location means the same spur or siding.

(c) Theft. - Property stolen from a number of persons located in one place constitutes one offence for scoring purposes.

(d) Theft of motor vehicle. - Score one offence for each vehicle stolen.

Multiple offences. - Where several offences occur in one incident, score the most serious offence.

Juvenile delinquents. - Where one or more juveniles are formally charged, the offence data and persons data are to be reported in the same manner as for adults.

Persons reported missing. - Adults or juveniles who are resident, or temporarily residing in your area of jurisdiction, who are reported missing - regardless of the period of time - excluding children missing at public gatherings, exhibitions, etc.

Missing persons located. - Adults or juveniles missing from your area who have been located by your force or by some other police force. Located does not necessarily mean returned to your area. Do not count persons located for other departments.

Persons drowned. - Count those persons whose death is caused by accidental drowning.

Motor vehicles stolen. - Report only motor vehicles stolen in your area.

Motor vehicles recovered. - Report all motor vehicles recovered locally or elsewhere which were stolen from your area. Do not count motor vehicles recovered for other departments.

TERMINOLOGY

Reported or known to the police. - All offences and alledged offences occuring within the jurisdiction of the contributing police department. Includes offences committed in previous months but not reported until this month and 'unfounded' reports.

Unfounded. - Means that the investigation established the crime did not happen, was not attempted or there was no crime.

Actual offences. - Actual offences are those known to the police which investigation prove to be 'founded'.

Offences cleared by charge. - An offence is 'cleared by charge' when an information has been laid against at least one person. This includes arrests, summonses to appear and warrants to apprehend.

Offences and not arrests are being counted. - It makes no difference how many persons are arrested. This instruction is not affected by any subsequent acquittal, dismissal or withdrawal. An offence may be 'cleared by charge' if any other charge is laid in connection with the same offence. If several persons commit a crime and only one is arrested and charged, the offence is 'cleared by charge'. When the other offenders are charged, the offence is not again cleared by charge because this has already occured.

Offences cleared otherwise. - In certain situations, the police may not be able to clear the offence by charge. If all the following questions can be answered 'yes', then the offence can be 'cleared otherwise':

(a) Has the offender been identified?
(b) Is there enough evidence to support the laying of an information?
(c) Is there a reason outside the police control that prevents the laying of an information and the prosecution of the offender?

The limitations of 'cleared otherwise' are indicated by the following examples:

(a) The offender has died.
(b) The offender has been committed to a mental hospital and it is unlikely he will be released.
(c) A person confesses to a crime and subsequently dies.

(d) The offender is a juvenile and has not been charged but has been given an informal hearing in juvenile court; or handed over to his parents or guardian, a social agency or a department concerned.

(e) The offender admits an offence but there is a definite obstacle to proceedings, e.g., a diplomatic immunity.

(f) The complainant or essential witness is dead and proceedings cannot be instituted.

(g) The offender is known and sufficient evidence has been obtained but the complainant refuses to prosecute - this does not 'unfound' the offence.

(h) The offender is serving a sentence and no useful purpose would be served in laying an information.

(i) The offender is in a foreign country and cannot be returned (or the violation is under a provincial statute or municipal by-law and subject is in another province.)

(j) The offender has committed more than one offence and it has been decided to charge him with one or the most serious because no useful purpose would be served by proceeding with the other charges.

PERSONS CHARGED. - THE NUMBER OF PERSONS - NOT CHARGES - ARE BEING COUNTED. A PERSON SIMULTANEOUSLY CHARGED WITH MORE THAN ONE TYPE OF OFFENCE IS SCORED ONLY ONCE AND AGAINST THE MOST SERIOUS OFFENCE.

Persons arrested for other police forces are not counted as they will be counted by the force concerned. Individuals under this heading are broken down into adults and juveniles, and sub-divided into sex.

"Adult" is any person of sixteen years or over, or such age as may be directed in any province.

"Juvenile" is any girl or boy under the age of sixteen years, or such other age as may be directed in any province.

OFFENCE CLASSIFICATION

Homicides

Section 202 A C.C.

(1) Murder is capital murder or non-capital murder.

(2) Murder is capital murder, in respect of any person, where such person by his own act caused or assisted in causing the death of

(a) a police officer, police constable, constable, sheriff, deputy sheriff, sheriff's officer or other person employed for the preservation and maintenance of the public peace, acting in the course of his duties, or

(b) a warden, deputy warden, instructor, keeper, gaoler, guard or other officer or permanent employee of a prison, acting in the course of

his duties or counselled or procured another person to do any act causing or assisting in causing the death

(3) All murder other than capital murder is non-capital murder.

Attempted Murder - S. 210 C.C.

Everyone who attempts by any means to commit murder.

Manslaughter. - S. 207 C.C.

Manslaughter is culpable homicide that is not murder, infanticide, or causing death by criminal negligence.

Sexual Offences

Rape. - S. 136, 137 C.C.

Rape is the act of having sexual intercourse with a female person not his wife as defined in the Criminal Code (S. 135 C.C.).

Other sexual offences. - Includes:

Sexual intercourse:

(a) Females under 14 years of age (S. 138 (1) C.C.).

(b) Females 14 to 16 years of age (S. 138 (2) C.C.).

(c) Feeble-minded females (S. 140 C.C.).

Indecent Assault:

(a) On female (S. 141 (1) C.C.).

(b) On male (S. 148 C.C.)

Incest (S. 142 C.C.)

Seduction:

(a) Female 16 to 18 years of age (S. 143 C.C.)

(b) Under promise of marriage (S. 144 C.C.)

(c) Female employees (S. 145 (1) (b) C.C.)

(d) Female passengers on Vessels (S. 146 C.C.)

Acts of gross indecency (S. 149 C.C.)

Buggery or bestiality (S. 147 C.C.)

Assaults

Wounding - With intent and inflicting bodily harm. S. 216, 217, 218, 219,

220 C.C.

A wounding may be either with or without a weapon or instrument.

Includes:

Causing bodily harm with intent:

(a) Wound, maim, disfigure (S. 216 (a) C.C.)

(b) Endanger the life (S. 216 (b) C.C.)

(c) Prevent arrest or detention (S. 216 (c) C.C.)

Administering noxious thing (poison) (S. 217 (a) (b) C.C.)

Attempt to choke, suffocate or strangle (S. 218 (a) C.C.)

Administers drugs (S. 218 (b) C.C.)

Traps likely to cause bodily harm (S. 219 (1) (2) C.C.)

Interfering with transportation facilities (S. 220 C.C.)

Assaults (not indecent). - Defined S. 230 C.C.

Includes:

Common assault (S. 231 (1) C.C.)

Causing bodily harm (S. 231 (2) C.C.)

Assault with intent (S. 232 (1) C.C.)

Public or peace officer (S. 232 (2) (a) C.C.)

To resist arrest (S. 232 (2) (b) C.C.)

Assault bailiff (S. 232 (2) (c) C.C.)

To rescue goods seized (S. 232 (2) (c) C.C.)

Robbery

Robbery. - S. 288, 289, 290 C.C.

Force or threat of force is a necessary ingredient in robbery whereas stealing from the person may be, and usually is, done secretly. Robbery includes stealing with violence, threats of violence, and while armed.

Includes:

Robbery with violence (S. 288 (b) C.C.)

Robbery (assault with intent) (S. 288 (c) C.V.)

Armed robbery (S. 288 (d) C.C.)

Robbery (S. 289 C.C.)

Stopping the mail (S. 290 C.C.)

The act of a pickpocket or snatching property from the person is not in itself robbery. IN that case, there must be an injury done or a struggle for possession.

Breaking and Entering

Breaking and Entering. - S. 292, 293 C.C.

"Break" - Definition (S. 268 (a) C.C.)

"Entrance" - Definition (S. 294 (a) and (b) C.C.)

"Place" - Definition (S. 292 (4) C.C.)

Includes:

Breaking and entering with intent (S. 292 (1) (a) C.C.)

Breaking and entering and committing (S. 292 (1) (b) C.C.)

Breaking out (S. 292 (1) (c) C.C.)

Being unlawfully in dwelling house (S. 293 (1) C.C.)

Cases of breaking into a motor vehicle are classified as thefts.

Hotel room, suite, motel room

One offence is counted for each room or suite which is registered to a guest.

Multiple dwellings, apartments, suites, house trailers

One offence is counted for each apartment, suite, etc., since each is considered a home.

Trains, box-cars, "Piggy-backs"

One offence is counted for any number of box-cars grouped in one location, even if several are broken into. Grouped in one location is defined as on the same spur or siding. The number of box-cars entered makes no difference.

Offices, warehouses

One offence is counted where the whole of the building is occupied by one firm.

Theft

Theft of motor vehicle. - S. 280 (a), 281 C.C.

Includes all offences where a motor vehicle is taken without the consent of the owner.

Theft over $50. - S. 276 (1), 278 (1), 280 (a) C.C.

Includes offences of thefts and attempted thefts

over $50. The recovery of stolen property does not clear an incident. Includes:

Theft by person required to account (S. 276 (1) C.C.)

Misappropriation of money (S. 278 (1) C.C.)

Theft over $50. (S. 280 (a) C.C.)

Theft $50. and under. - S. 276 (1), 278 (1) 280 (b) C.C. Includes thefts and attempted thefts where the alledged value does not exceed $50. Includes:

Theft by person required to account (S. 276 (1) C.C.)

Misappropriation of money (S. 278 (1) C.C.)

Theft $50. and under (S. 280 (b) C.C.)

Have Stolen Goods

Having in possession property obtained by crime. - S.296 (a), 298 (1) (b), 299 C.C.

The offences formerly known as 'receiving' and 'retaining' have been abolished and replaced by a new offence 'having in possession property obtained by crime'. Includes:

Having in possession property obtained by crime. (S. 296 (a) C.C.)

Unlawfully having mail in possession (S. 298 (1) (b) C.C.)

Having in possession stolen goods brought into Canada (S. 299 C.C.)

Bringing stolen property into Canada (S. 299 C.C.)

Frauds

Frauds. - False pretences, forgery, uttering, fraud and all related offences as defined in the Criminal Code. Includes:

Criminal breach of trust (S. 282 C.C.)
False pretences (S. 304 to 308 C.C. (incl.)
Forgery and uttering (S. 310,311,312,313,317,318, C.C.)
False telegrams (S. 314, 315 C.C.)
Counterfeiting revenue stamps (S. 319 C.C.)
Destroying or falsifying documents (S.320,321 C.C.)
Frauds (S. 323 to 333 C.C. (incl.)
Fraud on creditors (S. 335 C.C.)
Fraud in relation to fares (S. 336 C.C.)
Mining Frauds (S. 337 and 339 C.C.)
Falsification of books and documents (S. 340 to 345 C.C. (incl.)
Personation with intent (S. 346, 347, 348 C.C.)
Trade mark forgery and frauds, etc. (S. 349 to 356 C.C. (incl.)

Prostitution

Prostitution. - Prostitutes, night-walkers, bawdy-houses, procuring and related offences as defined in the Criminal Code. Includes:

Procuring or permitting defilement (S. 155, 156 C.C.)

Prostitute or night-walker (S. 164 (1) (c) C.C.)

Bawdy-houses (S. 182 C.C.)

Transportation to bawdy-house (S. 183 C.C.)

Procuring, including living on avails, etc. (S. 184 C.C.)

Gaming and Betting

Gaming and betting. - Lottery, gaming and related offences as defined in the Criminal Code. Includes:

Gaming and betting houses (S. 176 C.C.)

Betting, Book-making, etc. (S. 177 C.C.)

Lotteries, etc. (S. 179 C.C.)

Gambling in public conveyances (S. 180 C.C.)

Cheating at play (S.181 C.C.)

Offensive Weapons

Offensive weapons. - As defined in the Criminal Code. Includes:

Placing or possession of explosive with intent (S. 79, 80 C.C.)

Possession of weapon (S. 82 C.C.)

Carrying weapons, etc. (S. 83, 84, 85 C.C.)

Pointing firearm (S. 86 C.C.)

While attending public meeting (S. 87 C.C.)

Sale, barter, etc. to minors (S. 88 (1) C.C.)

Spring-knives (S. 88 (3) C.C.)

Unauthorized issue of permits (S. 89 C.C.)

Unregistered firearms (S. 91 (1) C.C.)

Retail transactions in firearms (S. 91 (1) C.C.)

Other Criminal Code Offences

Includes all other offences under the Criminal Code not specified, except traffic offences.

Federal Statutes

Includes offences under Federal Statutes except traffic offences and the Narcotic Control Act, the offences under the Controlled Drugs part of the Food and Drug Act, which are reported exclusively by the R.C.M.P. to avoid duplication.

Provincial Statutes

Includes offences under the Provincial Statutes except traffic.

Municipal By-laws

Includes offences under the Municipal By-laws except traffic.

APPENDIX II: PERSONS CONVICTED[2]

The person is the basic unit in Part I of this report. While individuals may be charged with more than one offence, only one offence is tabulated for each person represented in the tables. This offence is selected according to the following criteria:

(1) If the person was tried on several charges, the offence selected is that for which proceedings were carried to the furthest stage - conviction and sentence.

(2) If there were several convictions, the offence selected is that for which the heaviest punishment was awarded.

(3) If the final result of proceedings on two or more charges was the same, the offence selected is the more serious one, as measured by the maximum penalty allowed by law.

(4) If a person was prosecuted for one offence and convicted of another, for example, charged with murder and convicted of manslaughter, the offence selected is the one of which the person was convicted.

The total number of persons charged with indictable offences during 1969 together with the results of proceedings,

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2. Taken from D.B.S. catalogue 85-201, Statistics of criminal and other offences, Introduction, 1969.

the type of offence of which they were convicted and the sentence imposed are shown in the following tables.

APPENDIX III: OFFENCES AS CLASSIFIED BY THE DOMINION BUREAU OF STATISTICS, PUBLICATION NUMBER 85-201, STATISTICS OF CRIMINAL AND OTHER OFFENCES.

INDICTABLE OFFENCES UNDER THE CRIMINAL CODE

Offences Against the Person

Abandoning child
Abduction and kidnapping
Abortion and attempt
Assault causing bodily harm
Assault on peace officer and obstructing
Bigamy, feigned and unlawful marriage, polygamy
Buggery or bestiality, gross indencency
Causing bodily harm and danger
Common assault
Other criminal negligence, bodily harm
Criminal negligence, death (motor manslaughter)
Other criminal negligence, death
Criminal negligence in operation of motor vehicle
Criminal negligence, no bodily harm or death
Dangerous driving
Duties tending to preservation of life
Incest
Indecent assault on female
Indecent assault on male
Infanticide
Libel
Manslaughter
Murder, attempt to commit
Murder, Capital
Murder, non-capital
Neglect in childbirth and concealing dead body
Procuring
Rape
Rape, attempt to commit
Seduction
Sexual intercourse and attempt
Threatening letters
Other offences against the person

Offences Against Property with violence

Breaking and entering a place
Extortion

Forcible entry and detainer
Robbery
Robbery while armed

Offences Against Property Without Violence

False pretences
Fraud and corruption
Fraudulently taking cattle
Having in possession
Theft
Theft by conversion
Theft from mail

Malicious Offences Against Property

Arson and other fires
Other interference with property

Forgery and Currency Offences

Forgery and Uttering
Offences relating to currency

Other Offences under the Criminal Code

Attempt to commit and accessories
Bawdy house, keepers
Conspiracy
Dangerous sexual offenders
Gaming, betting and lotteries
Habitual criminal
Motor Vehicle
  Driving while ability to drive is impaired
  Driving while disqualified
  Driving while intoxicated
  Failing to stop at scene of accident
Offences tending to corrupt morals
Offensive weapons
Perjury and false statements
Prison breach, escape and rescue
Public mischief
Riots
Spreading false news
Various other offences

INDICTABLE OFFENCES UNDER THE FEDERAL STATUTES

Combines Investigation Act
Customs Act
Excise Act
Export and Import Permits Act
Food and Drugs Act
Post Office Act

SUMMARY OFFENCES UNDER THE CRIMINAL CODE

Attempts, conspiracies, accessories, counselling
Attempt to commit suicide
Bawdy house
Causing disturbance by being drunk
Common assault
Communicating venereal disease
Contempt of court
Corrupting morals
Cruelty to animals
Damage not exceeding $50.
Disorderly conduct
Duty of persons to provide necessaries
Duty to safeguard dangerous places
Fraudulently obtaining food or lodging
Fraudulently obtaining transportation
Gaming, betting and lotteries
Intimidation
Killing or injuring bird or animal other than cattle
Motor Vehicle
- Criminal negligence in operation of motor vehicle
- Dangerous driving
- Dangerous operation of vessel
- Driving while ability to drive is impaired
- Driving with more than 80 mgs. of alcohol in the blood
- Driving while disqualified
- Driving while intoxicated
- Failing to stop at scene of accident
- Motor vehicle equipped with smoke screen
- Taking motor vehicle without consent

Offensive weapons
Personating peace officer
Recognizance, breach of
Vagrancy
Other

SUMMARY OFFENCES UNDER THE FEDERAL STATUTES

Customs
Excise

Fisheries
Food and Drugs
Harbour Board and Merchant Seaman's
Immigration
Income Tax
Indian
  Intoxication
  Other
Juvenile Delinquents
  Adults who contribute to delinquency
  Incorrigibility
  Inducing child to leave home, etc.
  Sexual immorality
Lord's Day
National Defence
Railway
Unemployment Insurance
Weights and Measures
Other

SUMMARY OFFENCES UNDER THE PROVINCIAL STATUTES

Children of Unmarried Parents
Deserted Wives' and Children's Maintenance
Game and Fisheries
Highway Traffic
  Driving without due care and attention
  Other traffic
Liquor control
  Intoxication
  Other
Master and Servant
Medical, Dentistry and Pharmacy
Mental Diseases
Prairie and Forest Fire Prevention
Protection of Children
Public Health
School Laws
Other

SUMMARY OFFENCES UNDER MUNICIPAL BY-LAWS

Intoxication
Traffic
Other